

Title 16

SUBDIVISION OF LAND*

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Chapter 16.04

GENERAL

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16.04.010 Purpose.

The following rules and regulations are for the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, comfort, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including among other things, energy conservation, promotion of solar energy utilization, adequate provision for traffic, the promotion of safety from fire, flood waters and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements, to ensure that the development of individual lots is done in a manner as to protect the health, safety and general welfare of the community, to improve the livability of residential neighborhoods, enhance the appearance and customer draw of commercial areas,

increase property values, improve the compatibility of adjacent land uses, and contribute to the overall image and appeal of the city, to ensure that adequate community facilities are in place to serve development, and to ensure that new development is accountable for its proportionate fair share of the cost of necessary facility construction and expansion.

16.04.020 Penalty.

Any person, firm, or corporation violating any provisions of this Title 16, upon conviction therefore, shall be fined not more than one thousand dollars or incarcerated not more than one year, or both. Each day during which the violation continues is deemed a separate offense.

Chapter 16.08

DEFINITIONS

Sections:

16.08.005	Purpose.
16.08.010	Definitions.

16.08.005 Purpose.

The purpose of this chapter is to define terms used in this title and in Title 18 in order to clarify the provisions contained in these titles. For words, terms and phrases used in this title that are not defined in this chapter or elsewhere in the Code, the director shall interpret or define such words, terms and phrases. In making such interpretations or definitions, the director may consult secondary sources related to the planning profession or other applicable references including recognized authoritative dictionaries of the English language.

16.08.010 Definitions.

- A. As used in this title, all words and phrases shall be interpreted and defined in accordance with Section 1.04.020 and Subsection B. of this section. In the event of a conflict, Subsection B. of this section shall control.

- B. As used in this title:

“Affordable housing development” means a development designated as such by council by resolution in accordance with Section 16.43.035 and that is: (1) a housing development in which at least twenty percent of the total proposed units are sold to households earning seventy percent or less of qualified income and in which the units are owner-occupied; (2) a housing development in which at least twenty-five percent of the total proposed units are sold to households earning seventy-five percent or less of qualified income, and in which the units are owner-occupied; (3) a housing development in which at least thirty percent of the total proposed units are sold to households earning eighty percent or less of qualified income, and in which the units are owner-occupied; (4) a rental housing development in which at least twenty percent of the total proposed units are affordable to households earning fifty percent or less of qualified income; (5) a rental housing development in which at least twenty-five percent of the total proposed units are affordable to households earning fifty-five percent or less of qualified income; (6) a rental housing development in which at least forty percent of the total proposed units are affordable to households earning sixty percent or less of qualified income; or (7) any other housing development in which a percentage of the total proposed units, as determined by council, are affordable to households earning a percentage of qualified income, as determined by council. As used herein, “affordable” shall mean that the monthly cost of a rental housing unit is no more than the monthly rent set forth by income and rent tables released annually by the United States Department of Housing and Urban Development, a copy of which is on file with the city clerk’s office.

“Affordable housing unit” means a single unit of housing that is located within an affordable housing development, or a single unit of housing constructed on a single lot as part of development or redevelopment within a previously platted subdivision, and that is made available to a qualifying household.

“Alley” means a public way with less width than a street and designated for special access to the rear of buildings.

“Annexation” means the process by which land is added to the city in accordance with the provisions of the C.R.S. and this Code.

“Annexation Map” means that map prepared and filed in accordance with the C.R.S. and this title.

“Applicant” means the owner of record, or a duly designated representative thereof, who submits a development application to the city.

“Application” or “development application” means completed forms, plans, documents, reports, analyses, and other pertinent information, submitted to the city to prepare land for development under the jurisdiction of the city, or to seek approval for proposed development of said land on the basis of applicable provisions of the Municipal Code and adopted city standards, including, but not limited to, an application required for annexation, zoning, rezoning, subdivision, amended plats, special review, variance, site development plan, installation or modification of utilities, and any other matters regulated by the provisions of Titles 16, 17, 18, or 19 pertaining to the development and use of land.

“Application, complete” means a development application that the current planning manager, in consultation with the development review team, has determined to be in compliance with the standard applicable codes, therefore allowing formal action by the city to occur.

“Application, reviewable” means a development application that has been determined by the current planning manager to contain all required information as provided in the approved submittal checklist.

“Approved but uncompleted development” means any project for which an application for approval of a preliminary or final development plan, site plan, special review use, or preliminary or final subdivision plat has been approved by the city for which a building permit has not been issued. This phrase shall include similar approvals made by Larimer County for property annexed by the city following county approval but for which a building permit has not been issued by the county or the city.

“Block” means a unit of land bounded by streets or by a combination of streets, public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

“Boundary line adjustment” means the relocation or adjustment of a lot line, which meets the requirements of Chapter 16.28.

“Capacity” means the maximum demand that can be accommodated by a community facility without exceeding the adopted level of service.

“Capital Improvements Program” means the city’s most current adopted budget, which includes a five-year program for providing community facilities and includes the anticipated date by which community facilities will be constructed or when the capacity added by community facilities will be available.

“Certificate of occupancy” means any temporary or permanent certificate of occupancy issued under Chapter 15.08.

“Charter” means the Loveland City Charter, as amended from time-to-time.

“City engineer” means the city engineer within the public works department, or that person’s designee.

“Code” means the Loveland Municipal Code, as amended from time-to-time.

“Commencement of construction” means that construction of a portion of improvements shown on final construction drawings approved by the city has begun and the city has inspected

and determined that the improvements that have been installed are in compliance with the approved final construction drawings.

“Common ownership” means lots in a subdivision are either owned by a single person or entity, or owned by persons having a familial relationship or by entities owned in whole or in part by one person or such person and family members, or any combination thereof.

“Community facilities” means capital improvements provided by the city of Loveland or another governmental entity including, but not limited to facilities for providing water, wastewater, fire protection, emergency rescue services, public schools, parks, stormwater, power, and transportation facilities that are required by this title to be adequate and available as a condition of development approval.

“Comprehensive Master Plan” means the most current version of said document as adopted by the city.

“Concept review team” means members of the development review team who participate in the concept review process.

“Cost” for rental units means the gross monthly rental payment, plus estimated monthly utilities.

“C.R.S.” means the Colorado Revised Statutes, as amended from time-to-time.

“Current planning division” means the current planning division of the city’s development services department.

“Current planning manager” means the manager of the current planning division or that person’s designee. The current planning manager is the city’s chief planner, the chairperson of the development review team and the administrator of Title 18.

“Customary closing costs” shall mean the following customary and reasonable costs a seller incurs in the sale of real property: title insurance and endorsements premium; abstracting and title examination costs; recording fees; documentary fee; certificate of taxes fee; survey costs; credit report fee; appraisal fee; broker’s fee; attorneys’ fees; title insurance company document preparation and closing fees; and any other closing costs that would ordinarily result in the reduction of a seller’s basis in the real property being sold for the purpose of determining any capital gain under the Internal Revenue Code.

“Date of public hearing” means the date on which the planning commission or council shall hold a public hearing on an application for development approval pursuant to this Code.

“Day” means calendar day unless otherwise expressly noted.

“Determination of adequacy” means a determination that each community facility will be available concurrent with the impacts of the proposed development at the adopted levels of service or will be available subject to certain conditions. A determination of adequacy shall be made by council, the planning commission, or staff decision maker that is vested with authority pursuant to this title or in Title 17 or 18 to review and render a final approval of an application for development approval.

“Developer” means an individual, corporation, partnership, or any other legal entity who seeks review and approval by the city for development within the municipal boundary of the city.

“Development” means any improvement or modification of property, including redevelopment, for which an application must be submitted, reviewed and approved by the city prior to commencement of said improvement, modification or redevelopment pursuant to the provisions of Titles 16, 17, or 18.

“Development agreement” means an agreement that shall be executed between the applicant and the city, and shall contain such reasonable conditions and requirements as the city may require.

“Development review team” means the team comprised of representatives of city divisions including, but not limited to, representatives from building, transportation engineering, water, power, fire, police, current planning, community and strategic planning, and economic development, as well as private utility providers and other agencies, as determined by the current planning manager, that reviews and approves development applications.

“Development standards and guidelines” means standards, guidelines, and plans adopted by reference in the Code or as a part of the Comprehensive Master Plan.

“Development Standards and Specifications Governing the Construction of Public Improvements” means the most current version of said document as adopted by the city.

“Director” means the director of the city’s development services department or that person’s designee. The director shall be the administrator of this title.

“Double frontage lot” means any lot which abuts two or more streets other than a corner lot, which abuts two intersecting streets.

“Dwelling, accessory unit” means a single-family dwelling which meets all the requirements of Section 18.48.060.

“Dwelling, attached one family or single family” means a single-family dwelling attached to one or more single-family dwellings, with each dwelling unit located on its own separate lot or where the dwelling is designed, with respect to separate electric, water, and gas utility connections and common wall construction, to allow each dwelling unit to be located on its own separate lot through a subdivision.

“Dwelling, efficiency unit” means a dwelling unit, which is constructed within the same building as another approved use, and which is designed and built as a single dwelling unit to be occupied by no more than three persons, having a bathroom, cooking facilities, and a living room of not less than two-hundred twenty square feet of superficial floor area, and an additional one hundred square feet of superficial floor area provided for each occupant of such unit in excess of two.

“Dwelling, mixed use” means a dwelling that is located on the same lot or in the same building as a non-residential use.

“Dwelling, multiple family” means a dwelling containing three or more dwelling units, except that if the dwelling is designed with respect to separate electric, water, and gas utility connections and common wall construction to allow each dwelling unit to be located on its own separate lot through a subdivision, then the dwelling shall be a single-family attached dwelling. A multi-family dwelling shall not include hotels, motels, fraternity houses and sorority houses and similar group accommodations.

“Dwelling, multiple family for the elderly” means a dwelling meeting the definition of a multiple-family dwelling designed or intended for occupancy by persons sixty-two years of age or older.

“Dwelling, one-family” means a detached building, arranged and designed as a single dwelling unit other than a mobile home and intended to be occupied by not more than one family and which has not less than one bathroom and a minimum floor area of six hundred fifty square feet.

“Dwelling, three-family” means a building or lot containing three dwelling units and occupied by three families living independently of each other, which has not less than one

bathroom for each family and a minimum floor area of five hundred square feet per dwelling unit.

“Dwelling, two-family” means a building or lot containing two dwelling units designed for occupancy by two families living independently of each other, which has not less than one bathroom for each family and a minimum of five hundred square feet per dwelling unit, except that if the dwelling unit is designed with respect to separate electric, water, and gas utility connections and common wall construction to allow each dwelling unit to be located on its own separate lot through a subdivision after issuance of the building permit, then the dwelling shall be a single-family attached dwelling, following approval of such subdivision.

“Dwelling unit” means one or more rooms and a single kitchen designed for or occupied as a unit by one family for living and cooking purposes, located in a one-family, two-family or multiple-family dwelling or a mobile home.

“Easement” means any platted or designated easement dedicated to the city by plat or otherwise, whether or not it has been used as such, to which the public, the city and/or the public utilities are entitled to use without interference for a specified purpose. Where an easement is granted to the public for a specified purpose, the grant of said easement shall vest in the city and/or the public utilities rights including but not limited to, the right to conduct certain operations and to perform all necessary maintenance thereon; and “without interference” shall mean that persons are prohibited from constructing fences or structures of any kind, or installing landscaping or anything else that interferes with the city’s ability to access, operate, install, and maintain any city facility within said easement. Easements for specified purposes include, but are not limited to access easements, drainage easements, landscape easements, postal easements, and utility easements.

“Easement, drainage” means a right to use property to provide surface or subsurface drainage or convey stormwaters.

“Easement, landscape” means a right to use property for the installation and maintenance of landscaping materials. Except where combined with easements of other types and dedicated by plat or otherwise, it shall be unlawful for any person to use the surface or subsurface of a landscape easement for any purpose other than for installing and maintaining landscaping.

“Easement, pedestrian” means the designated property where the general public is entitled to travel on foot or by other non-motorized methods, including but not limited to, skis, bicycles, skate boards and roller blades, unless otherwise prohibited by official traffic control devices or ordinances.

“Easement, postal” means a right to use property for the installation and maintenance of one or more mailboxes or facilities used for receiving or sending mail.

“Easement, private access” means any property designated by plat or otherwise, which one or more persons, but not the general public, has the right to use for purposes of vehicular or pedestrian access or travel over, including ingress and egress to, or from, another parcel of property and the surface of which is not maintained by the city.

“Easement, private drainage” means a right for any private property designated, by plat or otherwise, to provide surface or subsurface drainage to convey stormwaters. All private drainage easements shall be maintained by the property owner unless that maintenance has been assigned to a common ownership association.

“Easement, public access” means any platted or designated public strip of land dedicated to the public by plat or otherwise for purposes of vehicular, pedestrian or bicycle access or travel over, including ingress and egress to, or from, another parcel of property, whether or not it has

ever been used as such. All public access easements dedicated or granted do not relieve the property owner of maintenance responsibilities of the property unless otherwise approved by the city.

“Easement, utility” means a right to use property for the installation, operation and maintenance of water, sewer, storm drainage, electrical, gas and communication lines and facilities.

“Environmentally sensitive areas” means an area with one or more of the following characteristics: slopes in excess of twenty percent; floodplain; soils classified as having high water table; soils classified as highly erodible, subject to erosion or highly acidic; land incapable of meeting percolation requirements; land formerly used for landfill operations or hazardous industrial use; fault areas; stream corridors; estuaries; mature stands of vegetation; aquifer recharge and discharge areas; habitat for wildlife; or any other area possessing environmental characteristics similar to those listed here.

“Final approval for development” means the approval required by this Code after which the land may be developed and used for any purpose permitted in the zoning district in which the land is located, without the requirement of further approval pursuant to Titles 16 and 18.

1. A credit shall be given toward satisfaction of the total amount of water rights required, which credit shall be in the amount of the water rights previously furnished in conjunction with zoning or rezoning requirements, prorated among all the acreage in conjunction with which such water rights were furnished.
2. In the event the final approval for development upon which the water rights requirement is based is subsequently revised and approved by council, the total amount of water rights required shall be computed as set forth in this section, and additional water rights shall be furnished to the city to make up any deficit, or a credit shall be granted in the city’s water bank as a refund of any surplus.

“Final decision,” as it pertains to a staff decision maker or the director, shall mean a decision or action under Title 16 or 18 is reduced to writing and is promptly mailed to the applicant and any other party-in-interest to whom the Code requires the written decision to be mailed. “Final decision,” as it pertains to the zoning board of adjustment or the planning commission, shall mean a decision or action by the board or commission under the Code for which the board or commission has adopted written findings and conclusions. A final decision shall not include any decision made by a staff decision maker or the director that is a recommendation to the planning commission or to the city council, or a decision by the planning commission that constitutes a recommendation to council.

“Final plat” means the plat or plats of certain described land prepared in accordance with this title, as an instrument for recording real estate interests with the Larimer County Clerk and Recorder. The final plat shall serve as the “plat” for purposes of C.R.S. § 31-23-215. The final plat shall be submitted as part of the final subdivision application.

“Fire Master Plan” means the most current version of said document as adopted by the city.

“Floor area” means the total area of all floors of a building included within the surrounding exterior walls, exclusive of open courts.

“Future street” means a right-of-way that will not be opened or improved for present use as a public way, but the right-of-way is dedicated to the public for future use as a street, and present or future use for the installation of all public utilities.

“Industrial development” means any premises devoted primarily to manufacturing, processing, assembly or storage of tangible personal property, research facilities, experimental or testing laboratories, warehouses, distribution and wholesale uses, utility service facilities, aircraft hangars and repair facilities for aircraft, and caretaker's quarters and other accessory buildings reasonably required for maintenance or security of the above uses. Notwithstanding the foregoing, “industrial development” shall not include any premises or development paid for with city funds provided such premises or development is to be used for a city purpose, but the definition of “industrial development” shall include any premises, development, building, facility and improvement funded by, constructed for and to be used by: the city’s power, water, wastewater, stormwater, or solid waste utility; or the city’s golf enterprise.

“Level of service” means an indicator of the extent or degree of service provided by, or proposed to be provided by, a community facility based upon and related to the operational characteristics of the community facility or the capacity per unit of demand for each community facility.

“Lot” means a portion of a subdivision intended as a unit for transfer of ownership or for development, which has access to a public right-of-way.

“Lot merger” means the merging of contiguous lots into a lesser number of lots than had originally existed, which meets the requirements of Chapter 16.32.

“Major subdivision” means all subdivisions not falling within the definition of a minor subdivision, boundary line adjustment, or lot merger. Except where otherwise specified or where the context requires otherwise, the term subdivision as used in this title shall mean major subdivision. The classification of a subdivision as “major” or “minor” shall be made by the director in accordance with the criteria specified in Chapter 16.20.

“Minor subdivision” means the division of land into no more than four additional lots, which meets the requirements of Chapter 16.20.

“Municipal building” means the city’s primary offices located at 500 E. Third Street, Loveland, Colorado 80537.

“Net acreage” means all land except dedicated road rights-of-way, lakes, and ponds over one-fourth acre in size, areas over one-fourth acre in size determined by the water and power department to be incapable of sustaining irrigated vegetation because of geologic or topographic constraints, or areas that will not be irrigated, such as conservation easements or detention ponds planted to dryland types of vegetation, and areas legally served by domestic water sources other than the city’s or areas irrigated with non-potable water as provided in Title 19.

“Net proceeds” shall mean the seller’s sales price for the real property being sold less seller’s original purchase price for the real property and less seller’s customary closing costs reasonably incurred in such sale.

“Non-retail” means any premise and development that is devoted to any commercial, private educational, religious, charitable, governmental or quasi-governmental purpose not included within the definitions of retail or industrial development set forth herein. Notwithstanding the foregoing, “non-retail” shall not include any premises or development paid for with city funds provided such premises or development is to be used for a city purpose; provided that the definition of “non-retail” shall include any premises, development, building, facility and improvement funded by, constructed for and to be used by: the city’s power, water, wastewater, stormwater, or solid waste utility; or the city’s golf enterprise. For purposes of assessing a capital expansion fee, non-retail shall include residential-type uses not intended for

permanent occupation or residency including, but not limited to, hotels and bed and breakfast establishments.

“Obsolete subdivision” means any legally platted property that is not in substantial compliance with current regulations regarding the subdivision and development of land, has been of record for more than five years, in which two-thirds or more of the lots are undeveloped, and council has declared it obsolete in accordance with Section 16.36.030.

“Outlot” means a portion of land included in a subdivision that is not intended for development with buildings containing residential, commercial or industrial uses. It may or may not have public right-of-way access. Common uses include, but are not limited to, easements, recreation gardens, open space or drainage detention.

“Photo reduction” means a legible eleven inches by seventeen inches photographic reduction, also known as a stat or photo mechanical transfer, which is required for all original twenty-four inches by thirty-six inches drawings submitted with an application for development approval under this title or in Title 17 or 18.

“Planned capital improvements” means a capital improvement or an extension or expansion of a capital improvement which does not presently exist, but which is included within a capital improvement program.

“Planning commission” means the planning commission of the city as duly constituted by law.

“Plat and map submission standards” means a set of digital or electronic data standards for plat and map submissions that is recommended by the current planning manager and approved by the director.

“Preliminary plat” means the plat or plats of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with this title, for the purpose of reviewing and evaluating the proposal prior to submission of a final plat. A preliminary plat is not a plat for purposes of C.R.S. § 31-23-215.

“Primary community route” means U.S. Highway 34 between Madison Avenue and Wilson Avenue, and U.S. Highway 287 between 8th Street S.E. and 50th Street, all located within the Loveland city limits.

“Public improvement construction plans” means the set of construction drawings prepared by the applicant’s professional engineer and other professional consultants that is submitted to the city for review and approval for the street, water, sewer, electrical, landscaping, and storm drainage improvements required to serve the proposed development.

“Qualified affordable housing development” means an affordable housing development which has been reviewed by the city community partnership office administrator and for which the community partnership office administrator has issued a letter finding that the project qualifies as an affordable housing development under this title and is eligible to receive all incentives available under city rules and regulations for such developments.

“Qualified income” means the median annual family income as adjusted for household size, as established by the United States Department of Housing and Urban Development.

“Qualifying household” means a household in which the combined income of all wage earners, who are over the age of eighteen and who are not full-time students, is eighty percent or less of qualified income and in which no household member has an ownership interest in an existing residential property.

“Raw Water Master Plan” means the most current version of said document as adopted by the city.

“Residential” means a development that includes one or more dwelling units.

“Retail” means any premises devoted primarily to the sale of merchandise to the general public.

“Right-of-way” means a strip of land dedicated to the public, the city and/or public utilities which have been constructed or will be constructed, for public transportation, drainage or utility improvements including but not limited to street paving, curb and gutter, sidewalks, bicycle lanes and buried or overhead utilities.

“Simple plat” means a plat representing a tract of land showing the boundaries of the property to create a legal lot for property previously legally described by a metes and bounds description and which has never been previously subdivided or platted by a governmental entity.

“Site Development Performance Standards and Guidelines” means the most current version of said document as adopted by the city pursuant to Chapter 18.47,

“Site development plan” means one or more plans, reports, studies, analyses, or other documentation submitted separately or in combination as required by the city as part of a development application pursuant to Chapters 18.39 and 18.46.

“Site work permit” means a permit issued by the city which expressly authorizes the owner, developer or his/her representatives, contractors, or subcontractors, to commence demolition, alteration, construction or installation of improvements to land, streets or utilities as shown on plans and supporting documents that are part of an approved site development plan. City issuance of a site work permit does not authorize any demolition or construction of buildings, structures or foundations pertinent thereto which are to be subsequently constructed on the site as part of a development.

“Site work permit application” means an application seeking city authorization to commence installation or modification of improvements to land, as shown and described in a site development plan approved by the city.

“Staff” means city employees or subcontractors assigned to perform or participate in the review of an application for development approval.

“Staff decision maker” means any city staff member granted authority to make decisions under Titles 16 and 18.

“Standard applicable codes” means adopted city codes and standards applicable to a development application.

“Storm Water Criteria Manual” means the most current version of said document as adopted by the city.

“Street” means “street, public.”

“Street, arterial” means a street used primarily for through traffic.

“Street, collector” means a street that connects a local street to an arterial street and is used to some extent for through traffic and partly for access to abutting properties.

“Street, cul-de-sac” means a street used primarily for access to abutting property, which is open at one end only.

“Street, local” means a street used primarily for access to abutting property.

“Street, part width” means the dedication of a portion of a street, usually along the edge of a subdivision where the remaining portion of the street could later be dedicated in another subdivision.

“Street, private” means a private way for sidewalk, right-of-way and utility installations, and including the suffixes “street,” “avenue,” “drive,” “circle,” “place,” “court” or other similar

designations, generally intended for use by specified adjacent property owners, public utilities, emergency services, and city operations including city inspections.

“Street, public” means a public way for sidewalk, right-of-way and utility installations, being the entire width from lot line to lot line, and including the suffixes “street,” “avenue,” “drive,” “circle,” “place,” “court” or other similar designations.

“Street, temporary no outlet or dead-end” means a street that does not connect with another street, but which will connect with another street when the city obtains the right-of-way for such connection.

“Subdivider” means any person dividing or proposing to divide land which division constitutes a subdivision.

“Subdivision” means the division or subdivision of any lot, tract or parcel of land for the purpose, whether immediate or future, of transfer of ownership, development, or building development. The term subdivision refers to a “major subdivision” unless noted otherwise.

“Submittal checklist” means the checklist provided by the city that lists and describes the forms, plans, reports, studies, analyses, and other documentation that must be submitted by the applicant for review and approval of a development application.

“Substantial compliance” means a determination by the development review team that a site development plan or other development application is in compliance with standard applicable codes, but requires minor revisions that have no significant impact on the building permit review process.

“Substantial revision” means a revision which includes, but is not limited to, a change in density, use, lot layout or a change that impacts drainage or public improvements.

“Tract” means a portion of a subdivision intended as, but not limited to, a unit for transfer of ownership or for development, typically being substantially larger than a lot and intended for large scale development, future subdivision into smaller lots, or preservation as open space or buffer yards, in accordance with dedications or notes on the plat.

“Traffic Impact Study Guidelines and Policies” means the most current version of said document as adopted by the city.

“Transportation Plan” means the most current version of said document as adopted by the city.

“Type 2 zoning permit” means a permit issued by the current planning division upon administrative approval of a special review application, with or without conditions or restrictions, after a neighborhood meeting has been conducted and a written statement of findings has been agreed to by the applicant and the planning division.

“Type 3 zoning permit” means a permit issued by the current planning division upon approval by the planning commission or council of a special review application, with or without conditions or restrictions, after a public hearing has been conducted.

“Undeveloped” means that a lot does not contain a principal or accessory structure nor is being used for a principal or accessory use.

“Vacation of right-of-way/easement” means the extinguishment of any right-of-way or easement as provided in Chapter 16.36.

“Vacation of obsolete subdivision” means the extinguishment by ordinance of a subdivision plat.

“Water Conservation Plan” means the most current version of said document as adopted by the city.

Chapter 16.10

APPEALS

16.10.010 Appeals of final decisions.

An appeal of a final decision by the director, other staff decision maker, or the planning commission regarding any provision in this title, shall be brought in accordance with Chapter 18.80.

Chapter 16.12

PLANNING COMMISSION

Sections:

- 16.12.005 Purpose.**
- 16.12.010 Planning commission.**
- 16.12.020 Meetings – Order of business.**
- 16.12.030 Meetings – Times – Locations – Special meetings.**

16.12.005 Purpose.

The purpose of this chapter is to establish the powers of the planning commission and to establish requirements for regular and special meetings.

16.12.010 Planning commission.

The planning commission for the city shall have and exercise all the powers and duties provided by law.

16.12.020 Meetings – Order of business.

The order of business at all regular meetings shall be established by the planning commission.

16.12.030 Meetings – Times – Locations – Special meetings.

Regular meetings of the planning commission for the city shall be held in council chambers in the municipal building, 500 East Third Street, Loveland, Colorado, or other place designated by the planning commission chairperson, in accordance with the schedule of meetings adopted by council. Special meetings shall be held upon the call of the chairperson or vice chairperson or upon written request of two members of the planning commission. Notice of special meetings shall be given as much in advance as is reasonable under the circumstances requiring the meeting by notice to each of the members, personally served or left at their usual places of residence. Such notice shall set forth a time, place, date and purpose of the meeting.

Chapter 16.16

REVIEW PROCEDURES

Sections:

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16.16.030	Review procedures, general.
16.16.040	Staff review of final plats, boundary line adjustments, and lot mergers.
16.16.050	Exceptions from code requirements.
16.16.060	Corrections, errors, omissions – Plat or annexation map.
16.16.070	Public notice requirements.

16.16.010 Purpose.

The purpose of this chapter is to set forth procedures for review of applications submitted for approval pursuant to this title, including subdivision, boundary line adjustment, lot merger, vacation of right-of-way/easement/obsolete subdivision, and simple plat.

16.16.020 Required process.

- A. Boundary line adjustment. A boundary line adjustment shall be processed in accordance with Chapters 16.28 and 18.39.
- B. Lot merger. A lot merger shall be processed in accordance with Chapters 16.32 and 18.39.
- C. Minor subdivision. A minor subdivision shall be processed in accordance with Chapters 16.20 and 18.39.
- D. Major subdivision. A subdivision shall be processed in accordance with Chapters 16.20 and 18.39.
- E. Vacation of right-of-way, easement, or obsolete subdivision. An easement, right-of-way or obsolete subdivision shall be vacated in accordance with Chapters 16.36 and 18.39.
- F. Simple plat. A simple plat shall be processed in accordance with Section 16.20.120 and Chapter 18.39.

16.16.030 Review procedures, general.

- A. Application submittal.
 1. All development applications shall be submitted to the current planning division and shall include all information as specified in the applicable submittal checklist. Each development application shall include payment of the applicable application fee as established by the council. The director may require any applicant to reimburse the city for costs incurred by the city when referring any such application to any legal, technical or other specialist, and incurring consultant fees in conjunction with review of the application.
 2. The current planning manager is authorized to create, modify, or discontinue any submittal checklist for all development applications as deemed necessary for the implementation of this title.
- B. Application review and approval.

1. All development applications shall be initially processed in accordance with the provisions of Chapter 18.39. Upon determination by the current planning manager that the application is complete, any additional applicable procedures for approvals, public notice, public hearings, and appeals shall be followed, as set forth in this title.
 2. Upon determining that an application is complete, the current planning manager shall schedule the application for the next available planning commission or council meeting, as applicable.
- C. Concurrent submittal and review of site development plan application.
1. For any development application governed by the provisions of this title, the applicant may submit a concurrent application for a site development plan for the subject lot or tract as set forth in Chapters 18.39 and 18.46. Any public improvements construction plans and other plans and supporting documents submitted with the development application shall also be deemed to be part of the site development plan application. Upon approval by the city, the public improvements construction plans and other supporting documents that are part of the concurrent application shall be deemed to be the final plans for the proposed development.
 2. When development is proposed in association with a subdivision application, the site development plan shall be reviewed concurrently by the development review team. Upon final approval of the associated development application and the recording of final documents, as applicable, the city may also approve the associated site development plan provided that:
 - a. the site development plan contains all information necessary for final approval; and
 - b. prior to approval of the site development plan, the site must consist of one or more legal lots of record upon which the proposed development may occur pursuant to applicable provisions of the Code.
- D. Appeal procedure. Appeals from any final decision by the development review team, the current planning manager, the director or the planning commission shall be conducted in accordance with Chapter 18.80.

16.16.040 Staff review of final plats, boundary line adjustments, and lot mergers.

- A. Review. The review of development applications for major and minor subdivision final plats, boundary line adjustments and lot mergers shall follow procedures set forth in Section 16.16.030. The review process continues until the current planning manager determines that the application is complete.
- B. Public notification requirements. Development applications for final plats for major and minor subdivisions that were preceded by an approved preliminary plat do not require a public hearing, except in connection with severed mineral rights or an appeal procedure as provided in this title. Development applications for boundary line adjustment or lot merger do not require a public hearing, except in connection with an appeal procedure, as provided in this title. For applications requiring mailed or posted public notice, and upon determination by the current planning manager that the application is complete, the director shall notify the applicant to complete all required public notice, in accordance with Section 16.16.070.

- C. Referral to planning commission for decision. The director may refer any application to the planning commission. Any application referred to the planning commission shall be set for a public hearing before the planning commission at its next regular meeting, at which there is an available time slot. Such public hearing shall be held in accordance with this section. Notice shall be given in accordance with Section 16.16.070.
- D. Appeal procedure.
 - 1. Appeals from any final decision by the director for final plats, minor subdivisions, boundary line adjustments and lot mergers shall be conducted by the planning commission in accordance with Chapter 18.80.
 - 2. The appeal of a final decision of the planning commission to council shall be conducted in accordance with Chapter 18.80.

16.16.050 Exceptions from code requirements.

- A. Planning commission decision. The planning commission, or in the case of an application processed under Section 16.16.040, the staff, may recommend that council authorize conditional exceptions to the regulations set forth in this title. It shall be necessary that the planning commission, or the staff, where applicable, find the following facts in order to recommend conditional exceptions with respect to a particular parcel of property:
 - 1. That there are special circumstances or conditions affecting said property which creates practical difficulties upon the applicant, or the development for which exceptions are sought is of such extraordinary commercial, social or cultural merit that the potential benefits to the community outweigh the tangible and intangible costs to the community created by the exceptions; and
 - 2. That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the vicinity in which said property is situated or in conflict with the purposes and objectives of the comprehensive master plan.
- B. Conditions for granting. In recommending such exceptions, the planning commission, or the staff, where applicable, shall recommend such conditions as deemed necessary, in its opinion, to substantially secure the objectives of the regulations to which the exceptions are granted. In recommending the authorization of any exceptions, the planning commission, or the staff, where applicable, shall report to council its findings with respect thereto and all facts in connection therewith, and shall specify and fully set forth the exception recommended and the conditions recommended.
- C. Council may grant exceptions. Council may grant exceptions to the regulations set forth in this title if the following facts with respect to the exceptions being sought are found by council to exist:
 - 1. That there are special circumstances or conditions affecting said property which create practical difficulties upon the applicant, or the development for which exceptions are sought is of such extraordinary commercial, social, or cultural merit that the potential benefits to the community outweigh the tangible and intangible costs to the community created by the exceptions; and
 - 2. That the granting of the exceptions will not be materially detrimental to the public welfare or injurious to other property in the area in which the property is situated or in conflict with the purposes and objectives of the comprehensive master plan.

16.16.060 Corrections, errors, omissions – Plat or annexation map.

Modification or amendments to an approved preliminary plat, final plat or minor subdivision plat or an annexation map shall be permitted in accordance with the following:

- A. For plats or annexation maps that have not yet been recorded, the director may authorize a modification of said plat or map for typographical or transpositional errors or for minor variations in the boundary dimensions or easements caused by errors or other unforeseen difficulties. Such changes authorized by this section shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved application. All plats or annexation maps so modified shall be revised to show the authorized changes, which changes shall become a part of the permanent records of the city. No such changes shall be effective unless all signatories to the original plat or map, or their successors, sign the corrected plat or map. Corrected final plats, minor subdivision plats or annexation maps shall be recorded as provided in Section 16.20.080D.
- B. For final subdivision plats, minor subdivision plats or annexation maps that have already been recorded, the director may authorize a modification of said plat or map for typographical or transposition errors or minor variations in the boundary dimensions or easements caused by errors or other unforeseen difficulties, so long as said change does not affect lot dimensions, lot layout or dedications. No such modification shall be effected unless there is submitted therewith: (1) a surveyor's affidavit certifying the correction; and (2) a certificate signed by all of the signatories to the original plat or map, or their successors, acknowledging the modification. Changes authorized by this section shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved application. All plats or maps shall be revised to show the authorized changes, which changes shall become a part of the permanent records of the city. Amended final plats, minor subdivision plats or annexation maps shall be recorded in accordance with Section 16.20.080D.
- C. Any amendment to any final subdivision plat or annexation map that is beyond the scope of Subsection A. or B. of this section shall be made in the same manner as the final subdivision plat or annexation map was approved.
- D. No such corrected plat or map as described in Subsection A. or B. of this section shall be valid unless signed by all current owners and lienholders of the property at the time of such correction and all parties who signed the original plat or map, or their successors.
- E. The planning commission shall be notified in writing of all decisions of the director with respect to decision taken under this section.

16.16.070 Public notice requirements.

- A. Purpose. This section is intended to provide standards for public notice to be given for neighborhood meetings, public hearings, and director decisions as required under this title.
- B. Applicability. Notification shall be given to the public by one or more of the methods provided in Table 16.16.070-1:

Table 16.16.070-1 REQUIRED PUBLIC NOTICE			
	Mailed Notice	Posted Notice	Published Notice
Neighborhood Meetings	Required	Required	Not required
Planning Commission Public Hearings: Preliminary Plat; Obsolete Subdivisions; Vacation (of easements or rights-of-way)	Required	Required	Required
Director Decision: Minor Subdivisions	Required	Required	Not required

- C. Public notice shall not be required for final plats for major subdivisions, boundary line adjustments, lot mergers, or simple plats.
- D. Content of public notice. Where public notice is required for neighborhood meetings, public hearings, director's decisions, or as otherwise required under this title, the notice shall include the following:
1. Time, date, and location of the meeting or hearing.
 2. The type of application to be considered.
 3. Project name.
 4. Applicant's name.
 5. Description of the location of the subject property by legal description, and general location using street address and/or nearest street intersection.
 6. Description of the proposal for the subject property.
 7. Primary contact (applicant or applicant's consultant) information, including name of individual, name of company, phone number, and e-mail address.
 8. Secondary contact (current planning division) information, including name of reviewing planner, phone number of reviewing planner, and e-mail address of reviewing planner.
 9. For public hearing notices, a statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the current planning division.
 10. For director decision notices, a statement that interested parties may submit an appeal in accordance with the requirements of Chapter 18.80.
- E. Mailed notice. At least fifteen days prior to a neighborhood meeting, public hearing, or the date of the director's decision, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.16.070.E.1 at the address listed for each owner. An affidavit of the applicant's compliance with such requirements shall be provided to the city prior to the public hearing for which the notice was given and shall meet the provisions of Section 16.16.070.
1. A list certified by the applicant of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the radius distances provided in Table 16.16.070-2 shall be submitted to the current planning division,

using the names and addresses that appear on the latest records of the Larimer County Clerk and Recorder.

2. For all applications requiring mailed notice, the radius distances specified in Table 16.16.070-2 shall be used to determine the area to which such notice shall be given, except as provided in Section 16.16.070.E. 3 and 4.

Table 16.16.070-2 AREA OF MAILED NOTICE DISTANCE BY APPLICATION TYPE AND SIZE			
Application Type	20 acres or less	21 – 50 acres	Greater than 50 acres
Obsolete Subdivisions	See Chapter 16.36		
Preliminary Plat	500 ft.	750 ft.	1,000 ft.
Minor Subdivision	150 ft.	150 ft.	150 ft.
Vacation (of easements or rights-of-way)	See Chapter 16.36		

3. All notification radius distances in Table 16.16.070-2 shall be reduced by fifty percent, but shall not be less than three hundred feet for infill projects that are twenty acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty percent of its boundary, to existing city limits. Such radii shall be calculated exclusive of water bodies except as provided below, public rights-of-way except as provided below, and public streets. The right-of-way of Interstate 25 shall be included when calculating notification radius distances. The following lakes shall be included when calculating notification radius distances: Boedecker Lake, Boyd Lake, Horseshoe Lake, and Lake Loveland. The first tier of lots that have frontage on any of these lakes shall be included in the area of public notice regardless of the distance from the subject site should any portion of the lake be within the notification radius.
 4. The area of required notification may be expanded up to twice the radius specified in Table 16.16.070-2 if development associated with an approved application would likely impact properties beyond the specified notification radius, as determined by the current planning manager. Development impacts may include but are not limited to vibration, noise, odor, glare or increased traffic. A determination to expand the notification area must be provided in writing to the applicant at least twenty-one days prior to the neighborhood meeting.
 5. The notification of mineral estate owners of the property which is the subject of a public hearing shall be given in accordance with the requirements of C.R.S. § 24-65.5-101 *et seq.* and an affidavit of the applicant's compliance with such requirements shall be provided to the city prior to the public hearing for which the notice was given and shall meet the provisions of Section 16.16.070J.
- F. Posted notice. At least fifteen days prior to the neighborhood meeting, public hearing or director's decision on the proposed application, the applicant shall post a notice on the subject property. Such notice shall be readily visible from each public street or highway adjoining the property and shall meet the provisions of Section 16.16.070.F.1. An

affidavit of the applicant's compliance with such requirements shall be provided to the city prior to the public hearing for which the notice was given and shall meet the provisions of Section 16.16.070J. Where posted notice is required under this chapter, the following shall apply:

1. The current planning division shall provide the specifications for the notice to be posted on the site, along with an 8-1/2" x 11" example of the wording as it should appear on the sign and the number and location of signs required for the site.
 2. It shall be the applicant's responsibility to have the sign created at a sign company, post the sign on the site, and ensure that the sign remain in place during the period leading up to the public hearing or director's decision.
- G. Published notice. In addition to the requirements set forth in Section 16.16.070E. and F., notice of the time, date, and place of the public hearing or director's decision, along with a statement of the nature of the matter to be considered, including a description of the location of the subject property and the agency or office and telephone number where further information may be obtained shall be published one time in a newspaper of general circulation by the current planning division at least fifteen days prior to any public hearing.
- H. Computation of time. In computing any period of time prescribed for the purpose of giving notice under this chapter, the day of the publication, mailing, or posting shall be included. The day of the meeting or hearing shall not be counted. Saturdays, Sundays, and legal holidays shall be counted as any other day.
- I. Notice cost. All costs for providing public notice as required by this chapter shall be the responsibility of the applicant except for the published notice.
- J. Applicant's certification. Prior to the neighborhood meeting, public hearing, or director's decision, the applicant shall provide the current planning division with an affidavit certifying that the requirements as to the applicant's responsibility for the applicable forms of notice under this chapter have been met. The current planning division shall provide a sample of the certification, which shall address all applicable forms of public notice required of the applicant as provided in Section 16.16.070E. and F.
- K. Failure to provide notice, defective notice. Failure to provide the required affidavit or evidence of a defective mailing list prior to a neighborhood meeting or public hearing shall result in termination of the review process until proper notice is provided meeting all applicable provisions under this chapter.
- L. Continuation of hearings. A hearing for which proper notice was given may be continued to a later date without again complying with the public notice requirements of this chapter, provided that the date, time, and location of the continued hearing is announced to the public at the time of continuance.

16.18

PUBLIC NOTICE REQUIREMENTS

Sections:

- 16.18.010 Purpose.**
- 16.18.020 Neighborhood meetings.**
- 16.18.030 Public hearings.**
- 16.18.040 Staff decisions (minor subdivisions).**
- 16.18.050 Additional notice requirements.**
- 16.18.060 Notice for appeals.**

16.18.010 Purpose.

- A. Purpose. This section provides standards for public notice for neighborhood meetings, public hearings, and staff decisions as specified within this title.
- B. Applicability. Public notice shall not be required for final plats for major subdivisions, boundary line adjustments, lot mergers, or simple plats.

16.18.020 Neighborhood meetings.

- A. Applicability. Neighborhood meetings are required for the application type listed in Table 16.18-1. Mailed and posted public notice is required for neighborhood meetings. It is the applicant's responsibility to mail and post public notice for neighborhood meetings.
- B. Mailed notice for neighborhood meetings.
 - 1. Deadline for mailing. At least fifteen days prior to a neighborhood meeting, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.18.020B.3.a. at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the city prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 16.18.050C.
 - 2. Content. The written (mailed) notice for neighborhood meetings shall include the following:
 - a. Time, date, and location of the meeting.
 - b. The application to be considered.
 - c. Project name.
 - d. Applicant's name.
 - e. Vicinity map identifying the site within the neighborhood context.
 - f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the municipal building.
 - g. Description of the proposal for the subject property.
 - h. Primary contact (applicant or applicant's consultant) information, including name of individual, name of company, phone number, and e-mail address.

- i. Secondary contact (current planning division) information, including the name, phone number, and email address of the reviewing planner.
- 3. Requirements for mailing.
 - a. Ownership list. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in Table 16.18-1 and Subsections c. through f. of this Subsection 3. shall be submitted to the current planning division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty days prior to the mailing.
 - b. Area of notification. The distances specified in Table 16.18-1 shall be used to determine the area to which written (mailed) notice shall be given, except as provided in Subsections c. through f. of this Subsection 3. All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

Table 16.18-1 MAILED NOTICE DISTANCE REQUIREMENTS FOR NEIGHBORHOOD MEETINGS			
Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Preliminary Plat	600 ft.	900 ft.	1,200 ft.

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. Lake, golf course, and park front notification.
 - i. If the subject property fronts a lake, public or private golf course, or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 16.18-1. For the purposes of this provision, lake front properties include those that are separated from the lake up to fifty feet by undevelopable property such as open space tracts and outlots.
 - ii. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in a. above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the neighborhood meeting.
- e. Reduction in notification area. All notification distances in Table 16.18-1 shall be reduced by fifty percent, but shall not be less than four hundred feet, for infill projects that are twenty acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty percent of its boundary, to properties within the existing city limits.
- f. Expansion of notification area. The area of required notification may be expanded up to twice the distance specified in Table 16.18-1 if the current planning manager reasonably anticipates interest or concern regarding the

application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the neighborhood meeting.

C. Posted notice for neighborhood meetings.

1. Deadline for posting. At least fifteen days prior to a neighborhood meeting, the applicant shall post a notice on the subject property.
2. Content. The posted notice for neighborhood meetings shall include the following:
 - a. Time, date, and location of the meeting.
 - b. The application to be considered.
 - c. Project name.
 - d. Current planning division contact information, including the division phone number.
3. Requirements for posting.
 - a. It shall be the applicant's responsibility to have the sign created at a sign company.
 - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign(s) on the site and ensure that the sign remain in place during the full fifteen-day period leading up to the neighborhood meeting. The current planning division shall provide the applicant specifications for the location of signs required for the site.
 - c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the city prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 16.18.050C.

16.18.030 Public hearings.

- A. Applicability. Public hearings are required for the application types listed in Table 16.18-2.
2. Mailed, posted, and published public notice is required for public hearings. It is the applicant's responsibility to mail and post public notice for public hearings and staff's responsibility to publish notice for public hearings.
- B. Mailed notice for public hearings.
 1. Deadline for mailing. At least fifteen days prior to a public hearing, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.18.030B.3.a. at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the city prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 16.18.050C.
 2. Content. The written (mailed) notice for public hearings shall include the following:
 - a. Time, date, and location of the hearing.
 - b. The application to be considered.
 - c. Project name.
 - d. Applicant's name.
 - e. Vicinity map identifying the site within the neighborhood context.
 - f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing

lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the municipal building.

- g. Description of the proposal for the subject property.
 - h. Primary contact (applicant or applicant's consultant) information, including name of individual, name of company, phone number, and e-mail address.
 - i. Secondary contact (current planning division) information, including the name, phone number, and email address of the reviewing planner.
 - j. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the current planning division.
3. Requirements for mailing.
- a. Ownership list. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in Table 16.18-2 and Subsections c. through g. of this Subsection 16.18.030.B.3. shall be submitted to the current planning division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty days prior to the mailing.
 - b. Area of notification. The distances specified in Table 16.18-2 shall be used to determine the area to which written (mailed) notice shall be given, except as provided in Subsections c. through g. of this Subsection 16.18.030.B.3. All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

Table 16.18-2 MAILED NOTICE DISTANCE REQUIREMENTS FOR PUBLIC HEARINGS			
Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Preliminary Plat	600 ft.	900 ft.	1,200 ft.
Obsolete Subdivisions	See Chapter 16.36		
Vacation (of easements or rights-of-way)	Adjacency; see Subsection h. below		

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. Lake, golf course, and park front notification.
 - i. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 16.18-2. For the purposes of this provision, lake front properties include those that are separated from the lake up to fifty feet by undevelopable property such as open space tracts and outlots.
 - ii. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the

- distance specified in a. above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the neighborhood meeting.
- e. Reduction in notification area. All notification distances in Table 16.18-2 shall be reduced by fifty percent, but shall not be less than four hundred feet, for infill projects that are twenty acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty percent of its boundary, to properties within the existing city limits of the city.
 - f. Expansion of notification area. The area of required notification may be expanded up to twice the distance specified in Table 16.18-2 if the current planning manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the public hearing.
 - g. Mineral estate owners. The notification of mineral estate owners of the property which is the subject of a public hearing shall be given by the applicant at least thirty days prior to the public hearing in accordance with the requirements of the Colorado Notification of Surface Development Act, C.R.S. § 24-65.5-101 *et seq.* An affidavit of the applicant's compliance with such requirements shall be provided to the city prior to the public hearing for which the notice was given and shall meet the provisions of said Act.
 - h. Vacations. Written notice shall be mailed to:
 - i. all other surface owners, if any; and
 - ii. all owners of such easement or right-of-way to be vacated, if such owners are not the city, whose names are shown in the ownership and encumbrance report as required by Section 16.36.010C.1.e.; and
 - iii. all owners of land abutting the easement or right-of-way to be vacated, if such owners are not the city, whose names are shown in the ownership and encumbrance report as required by Section 16.36.010C.1.d. Where an abutting property property is owned by a subdivision or condominium association, notification shall be to the board of directors of such association.
- C. Posted notice for public hearings.
- 1. Deadline for posting. At least fifteen days prior to a public hearing, the applicant shall post a notice on the subject property.
 - 2. Content. The posted notice for public hearings shall include the following:
 - a. Time, date, and location of the hearing.
 - b. The application to be considered.
 - c. Project name.
 - d. Current planning division contact information, including the division phone number.
 - 3. Requirements for posting.
 - a. It shall be the applicant's responsibility to have the sign created at a sign company.
 - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign on the

site and ensure that the sign remain in place during the full fifteen-day period leading up to the public hearing. The current planning division shall provide the applicant specifications for the location of signs required for the site.

- c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the city prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 16.18.050C.
- D. Published notice for public hearings.
 1. Deadline for publishing. Notice shall be published by the current planning division at least fifteen days prior to a public hearing.
 2. Content. The published notice for public hearings shall include the following:
 - a. Time, date, and location of the hearing.
 - b. The application to be considered.
 - c. Project name.
 - d. Applicant's name.
 - e. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the municipal building.
 - f. Description of the proposal for the subject property.
 - g. Current planning division contact information, including the division phone number.
 - h. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the current planning division.
 3. Requirements for publishing. Notice of the public hearing shall be published one time in a newspaper of general circulation.

16.18.040 Staff decisions (minor subdivisions).

- A. Applicability. Mailed and posted public notice is required for staff decisions listed in Table 16.18-3 and Subsection D. below. It is the applicant's responsibility to mail and post public notice for staff decisions.
- B. Mailed notice for staff decisions.
 1. Deadline for mailing. Within fifteen days after the preliminary approval of a minor plat of subdivision, the planning division shall formulate a preliminary written statement of findings and the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.18.040B.3.a. at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the city prior to final approval of the minor subdivision and shall satisfy the requirements of Section 16.18.050C.
 2. Content. The written (mailed) notice for staff decisions shall include the following:
 - a. Date of the decision.
 - b. The application to be considered.
 - c. Project name.
 - d. Applicant's name.
 - e. Vicinity map identifying the site within the neighborhood context.

- f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the municipal building.
 - g. Description of the proposal for the subject property.
 - h. Primary contact (applicant or applicant's consultant) information, including name of individual, name of company, phone number, and e-mail address.
 - i. Secondary contact (current planning division) information, including the name, phone number, and email address of the reviewing planner.
 - j. A statement that interested parties may submit an appeal in accordance with the requirements of Chapter 18.80 and the date of the ten-day deadline for filing an appeal.
3. Requirements for mailing.
- a. Ownership list. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in Table 16.18-3 and Subsections c. through f. of this Subsection 16.18.040B.3. shall be submitted to the current planning division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty days prior to the mailing.
 - b. Area of notification. The distances specified in Table 16.18-3 shall be used to determine the area to which written (mailed) notice shall be given, except as provided in Subsections c. through f. of this Subsection 16.18.040B.3. All properties that fall wholly or partially within the distance, as measured from the perimeter of the subject property, shall be included.

Table 16.18-3 MAILED NOTICE DISTANCE REQUIREMENTS FOR STAFF DECISIONS

Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Minor Subdivision	300 ft.	300 ft.	300 ft.

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. Lake, golf course, and park front notification.
 - i. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 16.18-3. For the purposes of this provision, lake front properties include those that are separated from the lake up to fifty feet by undevelopable property such as open space tracts and outlots.
 - ii. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the current planning manager reasonably anticipates that the proposal may impact

the use, enjoyment or viewshed of other fronting properties beyond the distance specified in Subsection a. above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the neighborhood meeting.

- e. Reduction in notification area. All notification distances in Table 16.18-3 shall be reduced by fifty percent, but shall not be less than four hundred feet for infill projects that are twenty acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty percent of its boundary, to properties within the existing city limits.
 - f. Expansion of notification area. The area of required notification may be expanded up to twice the distance specified in Table 16.18-3 if the current planning manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the staff decision.
- C. Posted notice for staff decisions.
- 1. Deadline for posting. The applicant shall post notice on the subject property of the staff decision within fifteen days after the preliminary staff decision and keep it posted for the duration of the ten-day appeal period.
 - 2. Content. The posted notice for staff decisions shall include the following:
 - a. Date of the decision.
 - b. The application to be considered.
 - c. Project name.
 - d. Current planning division contact information, including the division phone number.
 - 3. Requirements for posting.
 - a. It shall be the applicant's responsibility to have the sign created at a sign company.
 - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign on the site and ensure that the sign remain in place during the full ten-day appeal period. The current planning division shall provide the applicant specifications for the location of signs required for the site.
 - c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the city prior to the final approval for which the notice was given and shall meet the requirements of Section 16.18.050C.
- D. Optional notice.
- 1. Notice of staff decisions authorized under this title but not otherwise subject to specific notice requirements may be required by the current planning manager when the following circumstances exist:
 - a. A discretionary decision has been made by staff concerning the application of one or more regulations contained in this title; and
 - b. The decision may impact the use or enjoyment of property within the vicinity of the subject site; and

- c. There is reason to believe that there may be parties of interest residing or owning property within the vicinity of the affected property.
- 2. Type and distance of optional notice. Notice type and distance for optional notice shall be at the discretion of the current planning manager. In no instance shall mailed notice exceed three hundred feet from the boundary of the subject property.

16.18.050 Additional notice requirements.

- A. Computation of time. In computing any period of time prescribed for the purpose of giving notice under this chapter, the day of the publication, mailing, or posting shall be included. The day of the meeting or hearing shall not be counted. Saturdays, Sundays, and legal holidays shall be counted as any other day.
- B. Notice cost. All costs for providing public notice as required by this chapter shall be the responsibility of the applicant except for the published notice.
- C. Applicant's certification. Prior to the neighborhood meeting, public hearing, or final staff decision, the applicant shall provide the current planning division with an affidavit certifying that the requirements as to the applicant's responsibility for the applicable forms of notice under this chapter have been met. The current planning division shall provide a sample of the certification, which shall address all applicable forms of public notice required of the applicant.
- D. Failure to provide notice, defective notice. Failure to provide the required affidavit or evidence of a defective mailing list prior to a neighborhood meeting or public hearing shall result in termination of the review process until proper notice is provided meeting all applicable provisions under this section.
- E. Continuation of hearings and neighborhood meetings. A hearing or neighborhood meeting for which proper notice was given may be continued to a later date without again complying with the public notice requirements of this chapter, provided that the date, time, and location of the continued hearing or meeting is announced to the public at the time of continuance.

16.18.060 Notice for appeals.

Any final decision under this title that is appealed is subject to the same notice standards as the original notice.

Chapter 16.20

SUBMITTAL PROCEDURES AND REQUIREMENTS

Sections:

16.20.005	Purpose.
16.20.010	Where required.
16.20.015	Non-regulated land transfers.
16.20.020	Expiration of plat.
16.20.030	Subdivision review standards.
16.20.040	Public notice requirements.
16.20.050	Basic plat and reporting requirements.
16.20.060	Preliminary plat review procedure.
16.20.070	Submittal and review requirements – Preliminary plat application.
16.20.080	Final plat review procedure.
16.20.100	Minor subdivision review.
16.20.120	Simple plat review procedure.

16.20.005 Purpose.

This chapter establishes requirements for the subdivision of land, including review procedures conducted by the city.

16.20.010 Where required.

Before subdividing or resubdividing any lot, tract or parcel of land in the city into two or more lots, tracts or outlots for the purpose, whether immediate or future, of transfer of ownership, or building development, the property owner shall follow the procedure prescribed by this title unless an exception therefrom is granted pursuant to Section 16.16.050. This title shall not apply to any division of land by virtue of the foreclosure of a deed of trust, any division of land created by the establishment of street rights-of-way or other divisions of lands for public purposes not involving the necessity of subdividing adjoining lands, cemeteries, or any division of public streets or rights-of-way pursuant to a lawful right-of-way vacation.

- A. Unrecorded plats. No owner or agent of the owner of any land shall transfer, sell, agree to sell any land located by reference to, exhibition of or by the use of a plan or plat of a subdivision before such plan or plat has been approved by the city and recorded in the office of the Larimer County Clerk and Recorder. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from any penalties provided by law.
- B. Building permit, when issued. No building shall be erected on any lot, nor shall a building permit be issued for a building unless the lot is part of a subdivision approved in accordance with this title or prior subdivision regulations.
- C. Exceptions to subdivision requirement for enclaves. For areas annexed into the City as part of an enclave annexation, building permits may be issued for parcels that have not received subdivision approval under this title for the purpose of making interior or exterior improvements to existing structures, regardless of use (i.e. residential, commercial or industrial). Further, for residential structures only, building permits may

be issued without subdivision approval for building additions and construction of accessory structures provided any such addition or accessory structure complies with all requirements of Title 18 for the zone district in which the parcel is located. In such cases, setback measurements shall be based upon a field survey or existing survey monumentation. The exceptions set forth in this Subsection C. shall only apply to residential, commercial or industrial structures that existed on or before the effective date of the enclave annexation.

D. Recording plats. The city shall record every plat in accordance with Section 16.20.080D.

16.20.015 Non-regulated land transfers.

- A. Notwithstanding the provisions of Section 16.20.010 and any Colorado law to the contrary, any parcel of land, whether larger or smaller than thirty-five acres, may be conveyed and transferred by metes and bounds description or by other usual and customary method of land description, without being subject to the subdivision requirements of this title; provided however that no such transfer shall imply or confer any right to develop, or create a new lot, or create a nonconformity of any nature whatsoever, or circumvent the intent or requirements of this title or Title 18. Before development may occur on any such parcel, the owner shall subdivide the property in conformity with all requirements of this title and Title 18.
- B. Every deed or other instrument conveying or otherwise transferring unsubdivided property within the city shall contain the following statement in bold type prominently displayed on the face of said deed or instrument:

“The transfer of real property accomplished pursuant to this deed [or other instrument] does not confer or imply that the conveyed property or the remainder property may be used for development within the City of Loveland, Colorado. Any future development of the property shall be subject to all development requirements of the City of Loveland, including, without limitation, all zoning and subdivision requirements and procedures.”

16.20.020 Expiration of plat.

- A. Preliminary plat. Unless extended by the planning commission, for good cause shown, approval of a preliminary plat shall be valid for one year, unless a longer phasing plan is approved as a part of the preliminary plat. If the applicant fails to submit to the current planning division a final plat substantially conforming to the approved preliminary plat within one year after final approval of the preliminary plat, or as otherwise required by a longer phasing plan, approval of the preliminary plat by the planning commission shall be deemed withdrawn. A new preliminary plat application must be filed and all fees paid.
- B. Final plat. Approval of a final plat by the city shall be null and void if the plat is not recorded within one hundred eighty days after the date of approval, unless a written application for an extension of time is made to the director, and granted, during said one hundred eighty days.

16.20.030 Subdivision review standards.

The decision of the director, planning commission and council, if applicable, shall be based upon whether the applicant has demonstrated that the proposed subdivision protects the health, safety and general welfare of the public, and meets the following standards:

- A. The subdivision does not create, or mitigates to the extent possible, negative impacts on the surrounding property.
- B. The subdivision provides desirable settings for the buildings, protects views, and affords privacy, protects from noise and traffic, maintains the environmental quality of the community and uses resources such as energy and water wisely in keeping with responsible resource stewardship.
- C. The subdivision preserves natural features and environmentally sensitive areas of the site to the extent possible.
- D. The subdivision shall be reviewed in accordance with the comprehensive master plan, the transportation master plan, and other pertinent plans approved and adopted by the city, to insure that it is designed in accordance with good engineering practices, and provides for safe and convenient movement.
- E. The lots and tracts are laid out to allow efficient use of the property to be platted.
- F. The proposed public facilities and services are adequate, consistent with the city's utility planning, and capable of being provided in a timely and efficient manner in accordance with Section 16.41.060.
- G. The subdivision complies with the design standards set forth in Chapter 16.24 and the water rights requirements in Title 19.
- H. The subdivision complies with all applicable regulations contained within this Code.

16.20.040 Public notice requirements.

Notice shall be given of all public hearings on all subdivision applications as provided for in Section 16.16.070.

16.20.050 Basic plat and reporting requirements.

- A. Standards for preparing plats. All subdivision plats shall be prepared according to the standards determined by the director and included in the applicable submittal checklists promulgated by the current planning manager.

16.20.060 Preliminary plat review procedure.

- A. Purpose. The preliminary plat application shall provide the necessary information, including a development agreement where applicable, to allow the staff and planning commission to review a preliminary design and to resolve planning, engineering, or related issues that may be raised at a public hearing or at a preliminary phase of review.
- B. Development review. The design depicted on the preliminary plat shall be in accordance with the applicant's plans for actual development and, therefore, shall be a true representation of the subdivision which may eventually be recorded. The applicant shall follow the development review procedures as provided in Chapter 16.16.
- C. Planning commission decision.
 - 1. Subject to noticing requirements, and after the development review team has found the application to be complete, the director shall schedule a hearing on the application with the planning commission.

2. Using the review standards set forth in this title, the planning commission may approve, approve with conditions, or deny the application as submitted.
 3. When considering the division of land to accommodate two-family, three-family, or four-family dwellings when separate conveyance of each unit is desired by the applicant, the planning commission may approve lots or tracts that are smaller than the minimum required by the applicable zoning district if the net residential density is not greater than could otherwise be achieved under the lot area requirements of the applicable zoning district. When approving a preliminary plat to accommodate separate conveyance, the planning commission must determine that the following findings are met:
 - a. the intent of the applicable zoning district is met;
 - b. applicable zoning standards, other than lot area and lot width, are met;
 - c. provision of light and air will be adequate for the proposed development;
 - d. adequate usable open space will be available to residents;
 - e. the lot sizes and development thereon will be compatible with surrounding uses; and
 - f. conditions of approval assure that the lots will be used solely for the proposed residential use.
 4. The planning commission shall make appropriate findings based on the applicable review standards and adopted plans. When approving any application, the planning commission may impose any reasonable conditions to ensure that the proposal complies with the review standards set forth in this title, has been reviewed in accordance with the comprehensive master plan and complies with the Loveland Municipal Code. Before imposing any condition on the plat which is not a part of the application as submitted, the planning commission shall obtain the consent of the applicant to the conditions, either in writing or as part of the record of the proceeding. If the applicant fails to consent to all of the conditions, such failure shall be grounds for denial of the preliminary plat.
- D. Appeal procedures of planning commission decisions. An appeal under this section of a final decision of the planning commission shall be made to the city council and shall be conducted in accordance with Chapter 18.80.

16.20.070 Submittal and review requirements – Preliminary plat application.

The submittal and review of a preliminary plat application and any associated development applications shall be subject to and consistent with Chapter 16.16.

16.20.080 Final plat review procedure.

- A. Purpose. The purpose of the final plat submittal is to provide legal documents that will be a part of the city and/or county records. The final plat submittal shall include any development agreement as approved by the director, and all other final agreements between the applicant and the city.
- B. Final plat review.
 1. Pursuant to the powers granted to the city in the Colorado Constitution and the Charter, the director is hereby assigned the power to approve all final plats. The director shall make final decision on the final plat application within thirty days after a complete final plat is submitted to the current planning division. The director shall

- make appropriate findings based on the applicable review standards, or adopted plans. Using the review standards set forth in this title, the director shall approve, approve with conditions or deny the application. All conditions of approval applicable to the final plat shall be included in a development agreement, which shall be recorded with Larimer County Clerk and Recorder concurrent with recordation of the final plat. Appeals of final decisions of the director shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80.
2. Upon determination by the current planning manager that a complete final plat application has been submitted, the director shall approve the final plat. If the application is not complete, or is not in compliance with the preliminary plat, if applicable, then the director shall inform the applicant in writing of the information or revisions needed to complete the application. If the director approves the final plat, such approval shall also constitute an acceptance of all dedications and order the construction or installation of improvements if not completed.
 3. Until a final plat is approved and recorded, the city shall not accept, or authorize any party to lay out, open, improve, grade, pave, curb, light, lay or authorize water mains or sewers or connections to be laid in any alley, street, or future street which has been approved by the city as a public or private street or future street.
- C. Recording and filing requirements. Once the city has approved the final plat and the city's approval signatures have been affixed to the final improvement construction plans and, if applicable, the final development plan:
1. The applicant shall submit to the current planning division two signed, original mylars or one original, signed mylar and one clearly legible, reproducible copy of the plat, containing original signatures. Final plats that don't require a public hearing and are approved by the director shall be recorded no sooner than fourteen days after the required mailing of public notice.
 2. The city clerk shall cause the final plat, the development agreement, if applicable, and any other written agreements or documents which the director requires to be recorded with the Larimer County Clerk and Recorder.
 3. The city clerk shall distribute a copy to all other departments and individuals required by law or designated by the director.

16.20.100 Minor subdivision review.

- A. Minor subdivision review standard. Any decision approving or conditionally approving an application for a minor subdivision shall be based upon whether the applicant has demonstrated that the proposed minor subdivision meets the following standards:
 1. The division of land into no more than four additional lots;
 2. The division of a lot for the separate conveyance of each unit of a two-family, three-family or four-family dwelling; provided that such lot complies with all city ordinances applicable to such two, three and four-family dwellings thereon; that such lot, after its division, is used solely for a two, three or four-family dwelling or for a use permitted by the ordinances of the city without the necessity of the city's granting a variance for such use because of the size of the lots created by such division.
- B. Development review and approval. An application for minor subdivision shall be submitted, reviewed and approved in accordance with the procedures for a final plat set forth in Section 16.20.080.

- C. Any lot or tract created by a minor subdivision shall not be subdivided pursuant to a minor subdivision application within three years after recording of the plat creating said lot or tract unless authorized in writing by the director upon review of a written statement of justification by the applicant. The applicant's statement of justification and the director's written approval will be retained in the official subdivision file.
- D. A minor subdivision may dedicate rights-of-way and easements.
- E. Appeals from any final decision by the director for a minor subdivision shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80.

Section 16.20.120 Simple plat review procedure.

- A. A simple plat is required when the development or redevelopment of a single existing metes and bounds parcel is proposed but subdivision of the parcel to create additional development parcels is not proposed. Development or redevelopment in this case means the construction of additional or new principal uses and shall exclude improvements to existing structures or construction of accessory structures on parcels annexed as part of an enclave pursuant to Section 16.20.010.C.
- B. A simple plat, including the information required in Section 16.20.130 shall be submitted for review and approval by the director.
- C. The simple plat shall be reviewed for conformance with the requirements of the underlying zoning district, and for closure of the legal boundaries of said plat and shall not be approved for the purposes of creating additional or new lots for immediate or future development.
- D. Appeals from any final decision by the director for a simple plat shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80.

Chapter 16.21

SURVEY MONUMENTS

Sections:

16.21.005	Purpose.
16.21.010	Location.
16.21.020	Type – Approval.
16.21.030	Character, type and position – Notation on map.

16.21.005 Purpose.

This chapter specifies requirements for survey monuments used in the subdivision of land.

16.21.010 Location.

In making the survey for the subdivision, the Colorado professional land surveyor shall set sufficient permanent monuments so that the survey or any part thereof may be readily retraced. Such monuments shall be placed pursuant to the C.R.S. pertaining to the monumentation of land surveys. Also, monuments shall be set at all points of intersection of street centerlines with the boundary of the subdivision and at all street centerline intersections. Monuments shall also be set at all street centerline points of curvature and deflection points within the subdivision. Street centerline monuments shall be set after the final lift of pavement.

16.21.020 Type – Approval.

Permanent monuments shall be of a type as stated in the C.R.S. pertaining to the monumentation of land surveys.

16.21.030 Character, type and position – Notation on map.

The character, type and position of all monuments and corners shall be noted on the final map or plat.

Chapter 16.24

DESIGN STANDARDS

Sections:

16.24.010	Purpose.
16.24.011	Development standards – Adopted.
16.24.012	Electric development standards – Adopted.
16.24.013	Water and wastewater development standards – Adopted.
16.24.014	Storm drainage criteria and storm drainage standards – Adopted.
16.24.015	Development standards and guidelines.
16.24.020	Survey monuments.
16.24.030	Sewer, water, stormwater, street, and landscaping improvements.
16.24.040	Streets.
16.24.050	Lots.
16.24.060	Blocks.
16.24.070	Irrigation canals and ditches.
16.24.080	Water courses.
16.24.090	Flood protection.
16.24.100	Alleys and easements.
16.24.110	Names – Subdivision and streets.
16.24.120	Landscaping.
16.24.130	Pedestrian accesses.
16.24.140	Underground utilities.
16.24.150	Open space play fields.

16.24.010 Purpose.

The standards contained in this chapter apply to the layout of subdivisions.

16.24.011 Street development standards – Adopted.

The “Larimer County Urban Area Street Standards” (repealed and reenacted April 1, 2007, and as amended from time to time) (hereinafter, “LCUASS”) is hereby adopted by reference as the development standards of the city, for the purpose of establishing standards for streets, street signs, highway, curb and gutters, traffic control devices, electric and water distribution system improvements, sewer collection improvements, and other improvements as required to be constructed as public improvements within all developments within the city. Any policy revisions, as that term is defined in LCUASS, to LCUASS, including amendments which adopt codes by reference, shall be reviewed by the construction advisory board and either adopted or denied by resolution of council. At least one copy of LCUASS, which has been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

16.24.012 Electric development standards – Adopted.

The “Requirements for Electric Service” (hereinafter, the “standards”) is hereby adopted by reference. All electric facilities that are to become part of or to be connected with the city’s electric utility shall be constructed and connected in accordance with the standards. Any

revisions to the standards, including amendments which adopt codes by reference, shall be reviewed by the Loveland utilities commission and either adopted or denied by resolution of council. At least one copy of the standards, which has been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the standards, which codes have been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

16.24.013 Water and wastewater development standards – Adopted.

The “City of Loveland Water and Wastewater Development Standards” (hereinafter, the “standards”) is hereby adopted by reference. All facilities for water and wastewater shall be constructed in accordance with the “Standards. Notwithstanding anything in this chapter to the contrary, any revisions to the standards, including amendments which adopt codes by reference, shall be made in accordance with the process set forth in the standards. At least one copy of the standards, which has been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the standards, which codes have been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

16.24.014 Storm drainage criteria and storm drainage standards – Adopted.

- A. The “City of Loveland Storm Drainage Criteria,” consisting of (1) the Denver, Colorado Urban Drainage & Flood Control District’s “Urban Storm Drainage Criteria Manual,” Volume 1 (June 2001), Volume 2 (June 2001), and Volume 3, Best Management Practices (September 1999), and (2) the City of Loveland “Addendum to the Urban Storm Drainage Criteria Manuals Volumes 1, 2, and 3 (September 1, 2002),” (hereinafter, the “criteria”) is hereby adopted by reference. All stormwater facilities, whether public or private, shall be designed in accordance with the criteria. At least one copy of the criteria, which has been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the criteria, which codes have been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.
- B. The “City of Loveland Storm Drainage Standards” (hereinafter, the “standards”) is hereby adopted by reference. All stormwater facilities, whether public or private, shall be constructed in accordance with the standards. At least one copy of the standards, which has been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the standards, which codes have been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.
- C. Any and all amendments to the criteria or the standards, including amendments which adopt codes by reference, shall be made in accordance with the following process:
 - 1. Policy amendments shall be adopted by council by resolution. Policy amendments shall include major changes, changes in law, changes that cause significant increased cost or controversy, and changes that relate to the public use and convenience.

2. Technical amendments may be approved by the public works department director, provided that the amendments: (i) are consistent with all existing policies relevant to the amendment; (ii) do not result in any significant additional cost to persons affected by the amendment; and (iii) are consistent with existing law. Technical amendments shall consist solely of such minor additions, revisions, and corrections as necessary, in the judgment of the public works department director, to be necessary to better conform to good engineering or construction standards and practice. The public works department director shall place a notice of technical amendments on the city's web page where the applicable document is posted, and shall report the technical amendments to council.

16.24.015 Development standards and guidelines.

Streets, street signs, highways, curb and gutters, traffic control devices, electric and water distribution system improvements, sewer collection improvements, storm water control facilities and other improvements as required to be constructed within all developments shall be in accordance with the latest edition of the "Larimer County Urban Area Street Standards," the "City of Loveland Storm Drainage Criteria," the "City of Loveland Storm Drainage Standards," the "Requirements for Electric Service," and the "City of Loveland Water and Wastewater Development Standards." These manuals shall be administered by the public works department and the water and power department respectively. In addition to the specific requirements established in this chapter, all development shall be reviewed in accordance with the city's comprehensive master plan, as amended, and shall comply with the site development performance standards and guidelines, as amended. The design of the subdivision shall consider community design objectives that promote resource conserving practices and environmental goals such as xeriscaping, planting trees, landscaping, and incorporating solar energy use.

16.24.020 Survey monuments.

- A. All survey monuments shall be in accordance with Chapter 16.21.
- B. Before final approval of any final subdivision plat or annexation map, permanent survey monuments shall be set at all angle points and points of curvature on the exterior boundary lines. Boundary monuments shall be of a type as specified in the C.R.S.
- C. Before the acceptance of any newly constructed streets, centerline monuments shall be set at all street intersections, points of curvature, angle points, all intersections of street centerlines with the boundary of the subdivision and points that define the geometry of cul-de-sacs. Street centerline monuments shall be of a type as specified in the C.R.S.

16.24.030 Sewer, water, stormwater, street, and landscaping improvements.

Construction drawings for all necessary street improvements, sewer, water and stormwater systems and landscaping improvements shall be prepared by the applicant and approved by the city before the recordation of any final plat. Exceptions from this requirement may be granted by the director (as stated in the development agreement) where circumstances beyond the applicant's control requires an extension. The approved mylar construction drawings shall be revised by the applicant's engineer as record drawings which document all changes to the location of any constructed improvement as specified in the development standards and guidelines. The record drawings shall be prepared by the applicant and approved by the city prior to the issuance of any building permits within the subdivision.

16.24.040 Streets.

The street layout of each subdivision and the width of the streets therein shall be based upon and shall be in accordance with the transportation master plan, as amended.

- A. Streets shall have a logical relationship to topography and to the location of existing or platted streets in adjacent properties. Certain proposed streets, as determined by the city engineer, shall be extended to the boundary of the property to provide for traffic circulation within the vicinity.
- B. Streets, utility rights-of-way and public open spaces shall conform to the city-approved plans for the extension of such public facilities.
- C. Streets, utility rights-of-way and public open spaces shall comply with the provisions of C.R.S. § 43-2-101 *et seq.*

16.24.050 Lots.

- A. All lots shall comply with the provisions of Title 18.
- B. When practical, lot lines shall be at right angles to the street line or at right angles to the tangent of the curve of the street line.
- C. Double frontage lots shall not be permitted unless vehicular access to the lot is approved by the planning commission. All access restrictions shall be noted on the final plat or development agreement.
- D. All lots shall be provided access to a public right-of-way.

16.24.060 Blocks.

All contiguous lots surrounded by public right-of-way and/or designated or dedicated open space shall be grouped and labeled as distinct blocks. The city may require an easement through a block for the purpose of access.

16.24.070 Irrigation canals and ditches.

Whenever the side or rear property line of any lot is adjacent to an irrigation canal or ditch, the city may require the subdivider to install walls, fences or protective covering separating the lot or lots therefrom. The subdivider may be required to landscape and maintain the area between such wall or fence and the irrigation canal or ditch. Irrigation ditches shall not be constructed within public rights-of-way, except where they cross said rights-of-way.

16.24.080 Water courses.

In the event that the subdivision is traversed by any water course or channel, stream or creek, or is contiguous to the shoreline of a lake or a reservoir the subdivider shall provide sufficient easements, by dedication, or tracts of land separate for individual lots, acceptable to the city, to care for such surface and storm water and the disposal thereof and sufficient building setbacks or landscape or natural buffers as determined by the city.

16.24.090 Flood protection.

- A. All subdivision or annexation proposals for areas located within an area of special flood hazard shall be located and designed to minimize flood damage in accordance with the provisions of Chapters 18.45 and 15.14.

- B. Any development in the floodway, including but not limited to, cutting, filling, dredging, grading, storage, utility installation, street work, or construction shall require an approved floodplain development permit. All applications for floodplain development permits shall include:
 - 1. Floodway, and floodplain boundary information based on currently recognized FEMA maps.
 - 2. Base flood elevation.
 - 3. The number of acres in the floodplain for the proposed development.
- C. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwater into the system.
- D. All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- E. All new subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- F. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- G. All development proposals must conform to all federal, state and local floodplain regulations.
- H. The director or planning commission may, when deemed necessary for the health, safety, or welfare of the present and future population of the area or necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the flood fringe or floodway, as defined in Title 15, of any stream, river, or drainage course. Such flood fringe and floodway areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the director or planning commission.

16.24.100 Alleys and easements.

The city may require rights-of-way for alleys to be at least twenty feet in width and open at both ends in non-residential districts and in the rear of all lots fronting on arterial or collector streets. Where alleys are not required, a combination of right-of-way and/or utility easements at least fourteen feet in width shall be required along all front lot lines and outside of any proposed sidewalks. Easement widths along certain side lot lines where necessary for utilities such as poles, wires, conduits, storm or sanitary, sewers, gas and water lines shall be determined by the affected utility company.

16.24.110 Names – Subdivision and streets.

The proposed street names shall be approved by the fire and police departments and the current planning division and shall not duplicate or too closely approximate, phonetically, the name of any other subdivision or street in the city or vicinity. Street names shall be in compliance with Chapter 12.08. Subdivisions shall be named as a sequential, numerical derivation of the annexation map that incorporated the property into the city limits.

16.24.120 Landscaping.

Landscaping shall be located as approved by the director, and shall comply with the site development performance standards and guidelines and the community design guidelines. The director may authorize deviations from the standards and guidelines contained in the city's site development performance standards and guidelines or community design guidelines and the extent of site improvements otherwise required pursuant to said documents may be either decreased or increased, provided such requirements are consistent with the intent of said standards and guidelines. Buffer yards required in accordance with the site development performance standards and guidelines or the community design guidelines shall be within tracts of land separate from individual residential lots. Street trees shall be located wherever required by the director in accordance with the site development standards and guidelines. Street trees shall be of a type approved by the director.

16.24.130 Pedestrian accesses.

The director may require, in order to facilitate pedestrian access from roads to schools, parks, playgrounds, or other community or commercial services, perpetual unobstructed pedestrian easements at least twenty feet in width within the subdivision plat. Any such easements shall be within the subdivision plat, shall generally not follow rights-of-way, and shall be indicated on the plat.

16.24.140 Underground utilities.

All proposed utility facilities, including, but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout new subdivisions. Whenever practical, existing utility facilities that are located above ground, except when located in the public right-of-way, shall be removed and placed underground.

16.24.150 Open space play fields.

The planning commission may require that subdivisions for detached single family dwellings contain open space designed for outdoor play activities. Such areas shall be of suitable size, dimension, topography, and general character for the particular purpose of providing adequate open space within the subdivision for outdoor play activities. Detention ponds may be considered as required open play fields if designed to be suitable for play fields. Open space play fields shall be required at a rate of one acre for every one hundred single family lots, but shall not be required for subdivision plats containing less than fifty single family lots. Such play fields shall be maintained by the homeowner's association and shall have no effect on the amount of capital expansion fees otherwise imposed under Chapter 16.38.

Chapter 16.28

BOUNDARY LINE ADJUSTMENTS

Sections:

- 16.28.010 Purpose.**
- 16.28.020 Boundary line adjustment review standards.**
- 16.28.030 Boundary line adjustment review procedure.**
- 16.28.040 Submittal requirements – Boundary line adjustment application.**
- 16.28.050 Recordation of boundary line adjustment.**
- 16.28.060 Deed restriction in lieu of boundary line adjustment.**

16.28.010 Purpose.

This chapter establishes provisions for the adjustment of property boundary lines which does not result in the creation of an additional lot or tract. Before any boundary line adjustment shall be legally effective for any purpose, whether immediate or future, including transfer of ownership or building development of the resulting lots or tracts, the property owner shall follow the procedure prescribed by this chapter.

16.28.020 Boundary line adjustment review standards.

- A. Any decision approving or conditionally approving an application for a boundary line adjustment shall be based upon whether the applicant has demonstrated that the proposed boundary line adjustment meets the following standards:
 - 1. The adjustment involves adjacent lots or tracts.
 - 2. No new lot or tract is created.
 - 3. The resulting lots or tracts comply with the applicable zoning standards.
 - 4. The lots or tracts, as approved, will not conflict with existing structures or utilities on the property.
 - 5. The lots or tracts, as approved, will not deprive access as a result.
 - 6. The adjustment does not create, or mitigates to the extent possible, negative impacts on the surrounding property.
 - 7. The resulting lots or tracts allow efficient use of the property.
 - 8. The adjustment does not affect any wetland area.
 - 9. The adjustment involves only lots and tracts with identical zoning.

16.28.030 Boundary line adjustment review procedure.

All applications for boundary line adjustments shall be processed in accordance with Section 16.16.040.

16.28.040 Submittal requirements – Boundary line adjustment application.

Applications for boundary line adjustments shall include the information listed in the submittal checklist provided by the city.

16.28.050 Recordation of boundary line adjustment.

Upon approval by the director and conclusion of any applicable appeal procedures, the boundary line adjustment plat shall be recorded in compliance with Section 16.20.080D.

16.28.060 Deed restriction in lieu of boundary line adjustment.

- A. In the event the owner of property consisting of one or more adjacent lots and an adjacent unsubdivided parcel of land upon which a structure is located, wishes to obtain a building permit for either an accessory structure to be located on the property, an addition to the existing structure, or interior remodeling work without completing a boundary line adjustment, the owner may request that in lieu of a boundary line adjustment the city issue the building permit after receiving from the owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a boundary line adjustment. The deed restriction shall be released by the city upon completion of a boundary line adjustment combining all adjacent lots and un-subdivided parcels in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.
- B. Appeals from any final decision by the director for a deed restriction in lieu of a boundary line adjustment shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80.

Chapter 16.32

LOT MERGER

Sections:

- 16.32.010 Purpose.**
- 16.32.020 Lot merger review standards.**
- 16.32.030 Lot merger review procedure.**
- 16.32.040 Submittal requirements – Lot merger application.**
- 16.32.050 Recordation of lot merger.**
- 16.32.060 Deed restriction in lieu of lot merger.**

16.32.010 Purpose.

This chapter establishes provisions for the merging of lots or tracts. Before any lot merger shall be legally effective for any purpose, whether immediate or future, including transfer of ownership of or building development on, the resulting lot(s), the property owner shall follow the procedure prescribed by this chapter.

16.32.020 Lot merger review standards.

- A. Any decision approving or conditionally approving an application for a lot merger shall be based upon whether the applicant has demonstrated that the proposed lot merger meets the following standards:
 - 1. The lots or tracts to be merged are, at the time of merger, under common ownership and written consent has been obtained from all record owners and lien holders;
 - 2. The lots or tracts as merged will be in a single zone district and will comply with the applicable zoning standards;
 - 3. Access to parcels adjoining the resulting lots or tracts will not be restricted by the merger;
 - 4. The merger does not create, or mitigates to the extent possible, negative impacts on the surrounding property; and
 - 5. The resulting lots or tracts allow efficient use of the property.

16.32.030 Lot merger review procedure.

All applications for lot mergers shall be processed in accordance with Section 16.16.040.

16.32.040 Submittal requirements – Lot merger application.

Applications for lot mergers shall include the information listed in the submittal checklist provided by the city.

16.32.050 Recordation of lot merger.

Upon approval by director and conclusion of any applicable appeal procedures, the lot merger plat shall be recorded in compliance with Section 16.20.080D.

16.32.060 Deed restriction in lieu of lot merger.

- A. In the event the owner of property, consisting of two or more adjacent lots and containing an existing residential use, wishes to obtain a building permit for either an accessory structure to be located on the property or an addition to the existing structure without completing a lot merger, the owner may request that in lieu of a lot merger the city issue the building permit after receiving from the owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a lot merger. The deed restriction shall be released by the city upon completion of a lot merger combining all adjacent lots in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.
- B. Appeals from any final decision by the director for a deed restriction in lieu of a lot merger shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80.

Chapter 16.36

VACATION OF RIGHTS-OF-WAY/EASEMENTS/OBSOLETE SUBDIVISIONS

Sections:

16.36.005	Purpose.
16.36.010	Vacation by ordinance – Right-of-way or easement.
16.36.015	Vacation of temporary easement.
16.36.020	Rezoning vacated parcel.
16.36.030	Vacation of obsolete subdivision.
16.36.040	Vacation of portion of request.
16.36.050	Reservation of rights-of-way or easements.
16.36.060	Conditions on vacation.
16.36.070	Recordation of vacation.
16.36.080	Preservation of access.
16.36.090	Vesting of title upon vacation.
16.36.110	Annexation unaffected.

16.36.005 Purpose.

This chapter establishes provisions for the vacation of rights-of-way, easements and obsolete subdivisions when partial or full elimination of such legal instruments is pursued.

16.36.010 Vacation by ordinance – Right-of-way or easement.

- A. Except as otherwise provided in Section 16.36.015, all right, title or interest of the city, in and to any right-of-way or easement shall be divested only upon adoption by the city council of an ordinance vacating such right-of-way or easement. However, the city may vacate a city-owned, non-access easement created through a previous platting process, by approving a final plat that does not show such easement. If a right-of-way constitutes a boundary line of the city, it may be vacated only by joint decision of the board of county commissioners of Larimer County and council.
- B. Any ordinance effecting a vacation of a right-of-way or easement under this Section 16.36.010 shall contain the following findings, if applicable:
 1. That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.
 2. That the right-of-way or easement to be vacated is no longer necessary for the public use and convenience.
- C. Before a final decision by council may be taken on such ordinance, an application for vacation shall be submitted and processed as follows:
 1. Application. An application on the form and number required by the current planning division shall be filed with the current planning division by the record owners of more than fifty percent of property abutting the right-of-way or easement to be vacated. The applicant shall file the application together with the filing fee set pursuant to a resolution adopted by council. Said application shall include information specified in the applicable submittal checklist as promulgated by the current planning manager.

2. Review of non-access easement vacations. Except for non-access easements vacated through approval of a final plat, application for vacation of non-access easements shall be processed in accordance with Section 16.16.040 except that no notice is required to be given of the director's consideration of the requested vacation. If approved by staff, staff shall prepare a proposed vacation ordinance and forward the ordinance to council. If such vacation necessitates a change in the zoning map, staff shall also prepare an ordinance for such rezoning/ zoning map amendment.
3. Referral of access easement/right-of-way vacations. Applications for vacation of access easements and rights-of-way shall be processed in accordance with Section 16.16.040, except that all such vacation requests shall be referred to the planning commission. The planning commission shall hold a public hearing in accordance with Section 16.16.040. If the planning commission recommends granting the request for vacation, the planning commission shall recommend a form of ordinance to council. If such vacation necessitates a change in the zoning map, staff shall also prepare an ordinance for such rezoning/zoning map amendment.
4. Public notification. Notice shall be given for public hearings for vacations that occur through adoption of an ordinance by council as provided for in Section 16.18.
5. City council decision. Council may consider the proposed vacation ordinance in accordance with the notice and all other requirements of Chapter 2.12 for adopting ordinances. All posted notice shall be given pursuant to Section 16.16.070.

16.36.015 Vacation of temporary easement.

- A. When used in this section, the term "temporary easement" shall mean and include any real property easement, right-of-way, or license that has been conveyed temporarily to the city, meaning that by the written terms and conditions of the instrument creating such property interest it was intended to exist for a limited period of time only, as distinguished from an indefinite period of time or on a perpetual basis.
- B. Temporary easements assigned or conveyed to the city solely for its use may be vacated upon the city manager's determination that the temporary easement is no longer needed for the city's use and convenience.
- C. Before the city manager may vacate a temporary easement as permitted in this section, an applicant for the vacation shall file with the city the application required in Section 16.36.010C.1.; provided, however, that such application shall only be required to include the information listed in Subsections a. through j. of Section 16.36.010C.1. that the director determines is needed to fully and properly evaluate the temporary easement asked to be vacated. The city manager shall review that application in making the finding required in Subsection B. of this section before authorizing the vacation of the temporary easement. If the city manager decides to vacate a temporary easement as provided in this section, the city manager is authorized to sign on behalf of the city those documents, the forms of which must first be approved by the city attorney, as are necessary to vacate the temporary easement and the city clerk shall record such documents with the appropriate county clerk and recorder at the applicant's expense.
- D. The city manager's decision to grant or deny an application for the vacation of a temporary easement pursuant to this section, shall be considered a final administrative decision that may not be appealed to the planning commission or the city council.

16.36.020 Rezoning vacated parcel.

Where the vacated right-of-way parcel is zoned differently than the abutting, receiving parcel, a rezoning shall be processed concurrently with the vacation.

16.36.030 Vacation of obsolete subdivision.

- A. Finding. Council hereby finds and declares that obsolete subdivisions may interfere with the orderly development of land within the city, perpetuate obsolete development standards and guidelines, threaten to impose substantial financial burdens on the city, create serious environmental problems and reduce the quality of life for persons who live in or near the obsolete subdivisions. It is the intent of council that this procedure applies to property platted before and after the effective date of the ordinance codified in this title.
- B. Vacation process. Subject to the procedure set forth in this section, council may vacate all or a portion or portions of the final subdivision plat of any obsolete subdivision within the city upon the request of a property owner within the subdivision or the current planning division. Council may vacate only the final subdivision plat for that portion of an obsolete subdivision consisting of multiple, contiguous lots that are undeveloped and in common ownership. Council may vacate a final subdivision plat only after conducting a public hearing to consider evidence to determine whether the findings can be made that are necessary to determine if all or a part of the subdivision is obsolete within the meaning of this section and to consider evidence to determine whether the finding can be made that is necessary to adopt an ordinance to vacate.
 1. Prior to vacating all or a part of the final subdivision plat of any obsolete subdivision, council shall adopt a resolution of intent to vacate. The resolution shall set forth the reasons that council desires to vacate the final subdivision plat and shall establish the date, time and place of a public hearing on the proposed vacation. At least ninety days prior to council consideration of the resolution of intent to vacate, the planning division shall provide written notice to all record surface owners and lienholders that vacation of the subdivision is being considered.
 2. A copy of the resolution shall be published once at least ten days before the public hearing described in this section in a newspaper of general circulation within the city. In addition, a copy of the resolution shall be mailed to the last known address of the record surface owner or owners of each lot within the subdivision and to any lien holders of record, at least ten days before the public hearing. In addition, at least ninety days prior to council consideration of a resolution of intent to vacate, the planning division shall provide written notice to all record surface owners and lienholders that vacation of the subdivision is being considered.
 3. At the public hearing on the determination of obsolescence and proposed plat vacation, council shall receive a report from the planning division regarding a proposed vacation and shall hear from all interested persons. At the close of the public hearing, council may, by ordinance, vacate all or a part of the final subdivision plat for the obsolete subdivision if it makes the following findings:
 - a. that the subdivision is an obsolete subdivision within the meaning of this section; and
 - b. vacation of all or a part of the final subdivision plat for the obsolete subdivision will promote the health, safety and general welfare of the community. The

ordinance shall describe the property that is subject to vacation by making reference to the subdivision name and the final plat on record with the Larimer County Clerk and Recorder.

4. If council vacates all or a part of the final subdivision plat of any obsolete subdivision, it shall record a copy of the ordinance of vacation with the Larimer County Clerk and Recorder. The city shall also record a copy of the final subdivision plat as it was approved by the city with a prominent notation on the plat showing that it was vacated in whole or in part by decision of council and the date of such decision.
 5. The vacation of all or a part of the final subdivision plat for any obsolete subdivision shall have the effect of vacating all public easements and rights-of-way within the vacated subdivision or portion unless the ordinance of vacation expressly provides that any public right-of-way has not been vacated. The vacation of an obsolete subdivision or portion thereof shall not have the effect of interfering with any privately owned easements dedicated for utility, access or other similar purposes shown on the final subdivision plat that was vacated unless the city has obtained a release from the owner of the privately-owned easement authorizing the vacation of such easement. The title to land subject to easements or rights-of-way that have been vacated shall vest as provided in C.R.S. § 43-2-302.
- C. Effect of vacation. After all or a part of the final subdivision plat for any obsolete subdivision has been vacated pursuant to this section, the land within such vacated subdivision or portion thereof may not be subdivided without first complying with the then applicable state and local subdivision regulations, and it shall be unlawful to sell the land or any portion thereof with reference to the plat or develop any property within the vacated subdivision or portion thereof without first complying with the then applicable state and local subdivision regulations.
- D. Vested rights. Nothing in this section is intended to authorize the city to interfere with any lawfully established vested rights.

16.36.040 Vacation of portion of request.

The city shall have the right, in its discretion, to refuse any vacation request, or to vacate only a portion of the total area requested for vacation.

16.36.050 Reservation of rights-of-way or easements.

In the event of a vacation in accordance with this Chapter 16.36, rights-of-way or easements may be reserved for the continued use of existing or future streets, sewer, gas, water or similar pipelines and appurtenances, for overland drainage, drainage facilities or canals and appurtenances, and for electric, cable television, telephone, and similar lines and appurtenances, or any other public purpose.

16.36.060 Conditions on vacation.

The planning commission may recommend, and council in the ordinance effecting a vacation may impose, reasonable conditions on said vacation, to preserve and promote the public health, safety and welfare of the inhabitants of the city and the public generally. Such reasonable conditions may include the payment of money to the city as consideration for a vacation, when the vesting of title upon vacation may confer a benefit upon the new owner of the vacated right-

of-way or easement, or where the city has purchased or will purchase a right-of-way or easement to replace that being vacated.

16.36.070 Recordation of vacation.

In the event of a vacation of a right-of-way, easement, or obsolete subdivision in accordance with this chapter, the documents vacating such action, including without limitation, any resolution, ordinance, deed, conveyance document, plat, or survey, shall be recorded by the city clerk in the office of the Larimer County Clerk and Recorder.

16.36.080 Preservation of access.

No right-of-way or part thereof shall be vacated so as to leave any land adjoining said right-of-way without an established public or private road connecting said land with another established public or private road.

16.36.090 Vesting of title upon vacation.

Any ordinance effecting a vacation under this chapter shall state to whom title to the vacated land shall vest upon vacation. Title to the lands included within a right-of-way or so much thereof as may be vacated shall vest in accordance with the provisions of C.R.S. § 43-2-302.

16.36.110 Annexation unaffected.

Where a subdivision plat is vacated under this chapter, such vacation shall not in any way affect any previously approved annexation involving the same or other lands.

Chapter 16.38

CAPITAL EXPANSION FEES

Sections:

16.38.010	Purpose.
16.38.020	Fees imposed.
16.38.030	Change in use credit.
16.38.050	Unlawful to occupy.
16.38.060	Unpaid capital expansion fee – Lien.
16.38.070	Exemption from capital expansion fees – Generally.
16.38.071	Deferral of fees
16.38.072	Exemption for historic downtown Loveland.
16.38.075	Exemption from capital expansion fees – Not-for-profit facilities.
16.38.080	Exemption from capital expansion fees – Qualified affordable housing.
16.38.085	Capital expansion fees for affordable housing developments.
16.38.090	Reduction in fee for minimal traffic.
16.38.100	Disposition of fees.
16.38.110	Review.

16.38.010 Purpose.

It is the purpose of this chapter to adopt a rational system for identifying growth-related costs incurred by the city in providing for new and expanded capital facilities made necessary by expanded population levels and economic activity levels, to develop a fee structure therefor directly related to such costs and to provide a method for collection of such fees. It is the further intent of this chapter that such fees accurately reflect actual growth-related capital costs, that once such costs are paid ongoing operating charges will be similar to charges imposed prior to such development, that the system be understandable and inexpensive to apply, that policies and fees will be subject to revision as conditions change and that the system will be linked to a capital improvement program designed to provide the facilities for which the fees are imposed.

16.38.020 Fees imposed.

- A. There are imposed capital expansion fees upon every additional dwelling unit of residential development and every square foot of retail, non-retail and industrial development.
- B. Capital expansion fees shall be due and payable as follows:
 1. Except in the case of an accessory dwelling unit, for any activity requiring a certificate of occupancy, the fees shall be due and payable at the time that a final inspection for a certificate of occupancy is requested, except that if a temporary certificate of occupancy or other certificate of occupancy does not issue within thirty days after the call for inspection, the paid fees shall be returned to the party who paid such fees.
 2. Upon a change in the use of property where the new use is in a different category for which additional or higher fees are applicable, such additional or higher fees shall be

- due and payable at the time that a final inspection is requested, but if no certificate of occupancy is required, then at such time as the new use is actually commenced.
3. For all other activities for which a certificate of occupancy is not required, including expansion or remodeling which creates additional dwelling units or additional square footage for commercial or industrial use, fees shall be due and payable at the time such additional space is actually occupied, except that a credit shall be received for all fees for the prior use.
 4. Prior to recording any annexation map of property which contains a mobile home which existed on the property on or before July 1, 1984, or which contains the type of structure for which capital expansion fees are currently collected and for which a building permit was issued on or after July 1, 1984.
- C. The director may allow a person to defer payment, of a portion of the capital expansion fees for unfinished space, if any, in proportion to the pro rata amount of such unfinished space. The length of such deferral shall be paid when put into use (when completed), but shall not exceed three years.
- D. Capital expansion fees shall be adjusted annually pursuant to Section 16.38.110 and shall be reviewed and approved by resolution of council at least every five years.

16.38.030 Change in use credit.

- A. As used in this section:

“Capital expansion fee” means the fees imposed upon every additional dwelling unit of residential development and every square foot of retail, non-retail, and industrial development pursuant to Section 16.38.020.

“Credit” means the change in use credit for capital expansion fees determined in accordance with Subsection B. below.

“Development” means any improvement of property, other than redevelopment, for which a full building permit is issued, any change in use of property, any use of property which has been vacant for a year or more, or any use of property subject to compliance with the site development performance standards and guidelines.

“Letter of completion” means evidence issued by the city’s building division that construction authorized by a building permit has been substantially completed where: (i) uses are not determined at time of building permit application and the building permit authorizes construction of core and shell only; or (ii) the permit authorizes an expansion or remodel for an existing use, with no change in use.

“Redevelopment” means renovation, modification, or reconstruction of an existing residential structure or an existing retail, non-retail, commercial, or industrial structure.

“Site” means two or more contiguous lots which are being developed or redeveloped pursuant to the same site plan.

“Site plan” means a site development plan, or if no site development plan is required under Chapters 18.46 and 18.47, a site plan submitted with an application for a building permit.

“Use” means a land use authorized and approved pursuant to the applicable provisions of Title 18 and as defined by the Institute of Transportation Engineers for application to the capital expansion fees for streets.

- B. Change in use credit. Whenever an existing use on a lot is changed, a credit for capital expansion fees shall be calculated and made available for application as provided in

paragraphs C. and D. below for the payment of any capital expansion fee imposed by section 16.38.020, in accordance with the following:

1. The amount of the credit shall be the amount of capital expansion fees that would be due for a discontinued use as calculated in accordance with the then current capital expansion fees schedule. If no use is then in existence, the credit shall be based on capital expansion fees that would be due for the last previous use for which a certificate of occupancy or letter of completion was issued by the city.
2. The amount of the credit shall be established at the time capital expansion fees for a new use are due under Section 16.38.020.
3. If a change in use occurs in only a portion of a structure that is physically separated and permitted for a single use, the credit shall be calculated only on that portion of the structure for which the use is changed. For example, if a lot includes a single structure of twenty thousand square feet and the existing use being changed only pertains to a five thousand square foot portion of the structure that is physically separated and permitted for a single use, the credit shall be determined based only on that five thousand square feet.

C. Application of credit on single lot.

1. The credit shall be applied to capital expansion fees due for new uses established on the lot.
2. If capital expansion fees for a new use on a lot are greater than the amount of the credit, the difference shall be due at the time set forth in Section 16.38.020.
3. If capital expansion fees for a new use on a lot are less than the amount of the credit, no additional capital expansion fees shall be due for the new use on the lot.
4. Any excess capital expansion fee credit after application to a new use established on the lot from which it arose may be applied thereafter to each additional new use or change in use on the lot on a first-come, first-served basis, based on the date upon which a complete application for such development has been accepted by the City, except to the extent the credit has been previously used on other lots as provided in Subsection D. or E. below. Once an excess credit is established, the amount of that credit shall not be adjusted based on an increase in capital expansion fees, inflation or on any other basis.

D. Application of credit to site with multiple lots. Any remaining excess credit after application to a new use established on the lot from which it arose may be applied to each additional new use or change in use on adjacent lots within a site on a first-come, first-served basis, based on the date upon which a complete application for development for each new use has been accepted by the city.

E. Application of credit offsite. Any credit not used on a single lot or within a site may be used for capital expansion fees due for any new use established outside the lot or site only with buildings moved from the lot or site on a first-come, first-served basis, based on the date upon which a complete application for development has been accepted by the city.

F. Nature of credit. Any capital expansion fee credit established under this section shall not constitute a property right of any kind and shall not be owned by the property owner or transferable or assignable by the property owner to any third party. Except as provided in paragraphs D. and E. above, credit shall remain with the lot from which it arises.

16.38.050 Unlawful to occupy.

It is unlawful for any person or entity to occupy or use any real property for any purpose for which a capital expansion fee is due and payable prior to having paid such capital expansion fee. Each day of such occupancy or use shall be a separate offense.

16.38.060 Unpaid capital expansion fee – Lien.

All capital expansion fees shall be a lien upon each lot or parcel of land from the due date thereof, determined as set forth in Section 16.38.070A., until paid. If such fees are not paid when due, in addition to any other means provided by law, the city clerk shall certify such delinquent charges to the treasurer of Larimer County and the charges shall be collected in the same manner as though they were part of the taxes. The city reserves the right to withhold or revoke any permits, certificates or other approvals to any applicant who is delinquent in the payment of capital expansion fees.

16.38.070 Exemption from capital expansion fees – Generally.

Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic, or cultural benefits. When a capital-related fee is waived pursuant to this section, council shall direct that the waived fee be paid by the general fund or another appropriate fund.

16.38.071 Deferral of fees

Council may allow for the deferral of fees imposed on new development in the city. Council may do so by approving by resolution a written agreement entered into with the person owing the fees, which agreement shall contain such terms and conditions as the council determines are in the best interests of the city and provided that the council also determines and finds in the resolution that allowing the deferral of capital expansion fees or any other fees imposed on new development will serve a public purpose. A public purpose may include, without limitation, providing the public with significant social, economic or cultural benefits. In the event that any amounts owed under the agreement are not paid when due and except as otherwise provided in the deferral agreement, such unpaid amounts shall be a perpetual lien upon the real property for which the deferred fees are owed from the date the fees are due under the agreement until paid and such lien shall have priority over all other liens except those for real property taxes. If any deferred fee is not paid when due, the city may pursue all remedies available to it under the law to collect such fee, including, without limitation, by judicially foreclosing the lien. The city clerk may also certify any delinquent fees and other amounts owed under the deferral agreement to the treasurer of Larimer County and such fees and amounts shall then be collected in the same manner as though they were real property taxes. The agreement may further provide that the city shall have the right to withhold or revoke any building permits, certificates of occupancy, and other city approval relating to the development of the real property for which deferred fees are delinquent in payment.

16.38.072 Exemption for historic downtown Loveland.

- A. The capital expansion fees imposed by this chapter and any building permit fees imposed upon a construction project by the city, shall not be charged or collected for any construction project located within the boundaries of historic downtown Loveland. When

a construction project is exempt from capital related fees pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.

- B. As used in this section the term “historic downtown Loveland” means that area described as follows:

Beginning at the point of intersection of the centerlines of Washington Avenue and E. 4th Street, then extending north along said centerline to the intersection of the centerline of the alley between E. 7th Street and E. 8th Street, then west along said centerline to the intersection of the centerline of the alley between N. Lincoln Avenue and N. Jefferson Avenue, then extending north along said centerline to its intersection with the intersection with the centerline of E. 10th Street, then west to the intersection with the centerline of N. Lincoln Avenue, then extending north along said centerline to the Great Western/Omni Railroad tracks, then west along said tracks to the intersection with the tracks of the Burlington Northern/Santa Fe Railroad, then north to the east/west extension of the centerline of the alley shown on the Plat of Geist Subdivision, then west along said centerline of the alley to its intersection with the centerline of Garfield Avenue, then south along the centerline of Garfield Avenue to the intersection of the centerline of 2nd Street SW, then to the northwest corner of the Henrickson Addition, then south along the west line of the Henrickson Addition and continuing south to the Farmers Ditch, then east along Farmers Ditch to the intersection of said ditch and the centerline of S. Cleveland Avenue, then north along the said centerline to the intersection of the centerline of 3rd Street SE, then east along said centerline to the intersection of the centerline of S. Jefferson Avenue, then north along the said centerline to the projected intersection of the south property line of the residence at 110 S. Jefferson Avenue, then east along the southern property line of said residence, then continuing east along south property line of the residence at 117 S. Washington Avenue, then east to the intersection of the centerlines of Washington Avenue and the alley between 1st Street SE and 2nd Street SE, then east along said centerline to the intersection of the centerline of Monroe Avenue, then north along the said centerline to the intersection of the centerline of E. 1st Street, then east along the said centerline to the intersection of the centerline of Hayes Avenue, then north along said centerline to the intersection of the centerline of E. 3rd Street, then west along said centerline to the west side of the Loveland/Greeley Ditch, then north along the ditch to the intersection of the centerline of E. 4th Street, then west along said centerline to the P.O.B.

16.38.075 Exemption from capital expansion fees – Not-for-profit facilities.

- A. Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the city at taxpayer expense, that such facilities relieve the pressures of growth on city-provided facilities, and that such facilities do not create growth or growth impacts. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion

fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.

- B. No certificate of occupancy shall be issued for any not-for-profit facility that obtains a fee waiver pursuant to this section unless a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the sale of the not-for-profit facility to any person or entity for a use that does not meet the requirements of Subsection A. for a period of twenty years from the date on which a certificate of occupancy was first issued for the property. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (1) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (2) twenty years after the date on which a certificate of occupancy was first issued for the property, provided there is no existing default under the deed restriction or encumbrance.

16.38.080 Exemption from capital expansion fees – Qualified affordable housing.

- A. Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed is a qualified affordable housing development. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.
- B. Exemptions granted pursuant to this section shall be done in accordance with the following tables:
1. If granted for rental housing, the exemption shall be as follows:

Percentage of area median income to be served	Minimum percentage of units in development set aside as affordable housing	Percentage of fees waived for affordable housing only
30%	10%	100%
40%	15%	90%
50%	20%	80%
60%	40%	70%

2. If granted for “for-sale” housing, the exemption shall be as follows:

Percentage of area median income to be served	Minimum percentage of units in development set aside as affordable housing	Percentage of fees waived for affordable housing only
40%	5%	90%
50%	10%	80%

60%	15%	70%
70%	20%	60%
75%	25%	25%
80%	30%	15%

3. Notwithstanding the above provisions of this Subsection B., council may increase the percentage of fees waived under this section upon making a finding in its resolution waiving the fees that such percentage increase will serve a public purpose, which public purpose shall be specified in the resolution.
- C. Exemptions granted pursuant to this section shall be effective for one year from the date on which the exemption is granted unless extended by council for good cause shown. Any such extension shall be set forth in an amendment to the development agreement approved by resolution of council.

16.38.085 Capital expansion fees for affordable housing developments.

- A. Capital expansion fees, water rights requirements and fees, and any other fees imposed by the city upon an affordable housing development, whether for capital or other purposes (collectively, “development fees”), shall be calculated as of the date on which council adopts a resolution designating the housing development as affordable (the “designation date”). The development fees calculated under this section shall be valid for five years thereafter. At the end of the five-year period, the development fees shall be calculated each year thereafter on the basis of those development fees in effect five years prior. This adjustment shall continue each year until the last affordable housing unit within the affordable housing development receives a building permit, or the housing development loses its affordable designation in accordance with Subsection B. below.
- B. Ten years after the designation date, the housing development shall lose its affordable designation unless at least one affordable housing unit within the housing development has received a certificate of occupancy, in which case the development fees shall continue to be calculated as set forth in Subsection A. above. Notwithstanding the foregoing, any developer that has not obtained a certificate of occupancy at the end of the ten-year period may request that the affordable housing commission consider and make a recommendation to council to extend the housing development’s affordable designation and the fee reduction provided for herein for good cause shown. Any such extension shall be set forth in a development agreement approved by resolution of council.
- C. Notwithstanding anything herein to the contrary, the developer shall be entitled to pay the lower of the development fee in effect as of the designation date and the development fee in effect at the time such fees are paid.

16.38.090 Reduction in fee for minimal traffic.

The street capital expansion fee may be reduced for a specific land use if data deemed reliable by the city establishes that traffic for both peak hour and total daily volumes for the property are each less than sixty percent of the traffic assumptions used in establishing the fees for that specific land category in the adopted fee tables. The new fee will be based on a simple average of the data deemed reliable by the city for the property and the traffic assumptions used to establish the adopted fees.

16.38.100 Disposition of fees.

All fees collected pursuant to this chapter shall be deposited in a public works fund to be created by resolution of council, and to be used for the projects therein identified. Such resolution shall be established to comply with the provisions of C.R.S. § 31-15-302(1)(f)(I).

16.38.110 Review.

The fees imposed by this chapter and moneys expended from the public works fund shall be reviewed as follows:

- A. The capital expansion fees shall be adjusted annually, effective January 1 of each year. The adjustment shall be equal to the percentage change in the construction cost index for the Denver area as set forth in the preceding year's September issue of the Engineering News-Record published by McGraw Hill Companies. However, with respect to the street capital fee, the adjustment factor shall be equal to the most current preceding eight quarters' average annual percentage change in the construction costs as determined by the Colorado Department of Transportation Construction Cost index.
- B. The city manager shall report to council, in conjunction with the presentation of the proposed budget, annually, on the actual and proposed expenditures and projects accomplished and to be accomplished from the public works fund.

Chapter 16.39

SCHOOL LAND DEDICATION AND IN-LIEU FEES

Sections:

16.39.010	Purpose.
16.39.020	Definitions.
16.39.030	Land dedication in-lieu fees imposed.
16.39.040	Exemptions.
16.39.050	Use of funds by school district.
16.39.060	Report and review by school district and city.

16.39.010 Purpose.

It is the purpose of this chapter to adopt a rational system for identifying growth-related land needs and costs incurred by the school district in providing for new and expanded capital facilities made necessary by expanded population levels and economic activity levels, to develop a land dedication and fee structure therefore directly related to such needs and costs, and to provide a method of dedication and collection of such land and fees. It is the further intent of this chapter that such land dedication and fee imposition accurately reflect actual growth-related capital needs and costs, that the system be understandable and inexpensive to apply, that policies and fees be subject to revision as conditions change and that the system be linked to an implementable capital improvements program designed to provide the facilities for which the land dedication and fees are imposed.

16.39.020 Definitions.

As used in this chapter:

“Land development project” means the construction of one or more additional dwelling units or the modification of a non-dwelling unit building or structure to a dwelling unit.

“School district” means a public school district having an intergovernmental agreement with the city concerning the imposition of land dedication or fees in-lieu for school purposes.

“Independent living facilities” means a facility for persons who are socially and functionally independent all or most of the time. They are capable of moving about, taking care of their personal hygiene, preparing and eating their own meals, performing most housekeeping tasks and monitoring their own medications. They are able to reason, identify and meet their needs and deal appropriately with other people.

“Licensed personal care boarding homes (assisted living)” means a facility for an elder person who is functionally and/or socially impaired, needing assistance with personal care and some help moving about. Elder persons in assisted living facilities may also have occasional confusion or memory loss and need twenty-four-hour supervision. Nursing supervision is not required.

“Nursing homes” means a facility for an elder person who needs constant nursing supervision.

“Alzheimer homes” means a facility for persons who have been diagnosed with Alzheimer’s disease.

“Day care homes for mature adults (elder care homes)” means a facility which provides day care for aged adults, with or without nursing care.

16.39.030 Land dedication in-lieu fees imposed.

- A. There is imposed upon every land development project, as a condition which must be satisfied prior to requesting a final building inspection, proof that the appropriate land dedication has been made to the school district, or that the school district has been paid an in-lieu fee, in accordance with the land dedication and fee schedules adopted by the school district and approved by the city pursuant to intergovernmental agreement. If the applicant is required to pay the in-lieu fee, the fee shall be paid to the city, prior to a request for final inspection, at the current planning division, concurrently with the payment of other fees payable to the city pursuant to Chapter 16.38.
- B. Prior to or at the time that any proposed initial or modified land development project is submitted to the city for review, the superintendent of the school district, or designee, shall meet with the land development project applicant for the purpose of determining whether the school district desires the dedication of any land for schools within the land development project consistent with school district planning standards. In the event the dedication of sites or land areas is not deemed feasible or in the best interests of the school district as determined by the superintendent, or designee, the school district may require that the applicant pay the in-lieu fees as provided in this chapter.
- C. The requirement of land dedication and the payment of fees in-lieu of land dedication shall be imposed as a condition which must be satisfied prior to a request for final building inspection for all development for which building permits were applied for after the effective date of this ordinance, and upon all development which has been bound to such requirements by contract.

16.39.040 Exemptions.

- A. The following shall be exempted from the land dedication and in-lieu fees requirements of this chapter:
 - 1. Alteration or expansion of a dwelling unit not exceeding a net increase of one thousand square feet of the existing dwelling unit.
 - 2. Replacement of a dwelling unit in which the replacement does not exceed a net increase of one thousand square feet of the dwelling unit being replaced.
 - 3. Construction of a non-dwelling unit accessory building or structure.
 - 4. Construction of an accessory residential dwelling unit according to the provisions of this Code.
 - 5. Nursing homes, independent living facilities, licensed, personal care boarding home (assisted living), Alzheimer homes, day care homes for mature adults (elder care homes), as defined in this chapter.
 - 6. City-approved planned residential developments that are subject to recorded covenants restricting the age of the residents of said dwelling units such that the dwelling units may be classified as "housing for older persons" pursuant to the Federal Fair Housing Amendments Act of 1988.
- B. Any claim of exemption under this section must be made in writing by the applicant no later than the time of application for a certificate of occupancy. Any claim not so made shall be deemed waived.

16.39.050 Use of funds by school district.

- A. All in-lieu fees collected by the city on behalf of the school district shall be paid over to the school district no less than monthly. Upon receipt of the in-lieu fees from the city, the school district shall properly identify the fees and promptly deposit the fees into a trust fund to be established and held as a separate account by the school district. The school district shall be the owner of the funds in the account and shall comply with the provisions of C.R.S. § 29-1-801, *et seq.*
- B. The funds deposited into the account shall be earmarked and expended solely to acquire, develop, or expand school educational sites, or for capital facilities planning, site acquisition or school site capital outlay purposes, within the senior high school feeder attendance area boundaries that include the land development project for which the fee was paid. Subject to the time limitations contained in this section, the time for, nature, method, and extent of such planning or development shall be within the sole discretion of the school district.
- C. Any in-lieu fees which have not been expended by the school district for the purposes set forth in this section within ten years of the date of collection shall be refunded, with interest at the rate of six percent per annum compounded annually, to the person who paid the fee. If applicable, notice of such refund opportunity shall be mailed to the payer's address as reflected in the records maintained by the school district at the end of the ten-year period. If the person who paid the fee does not file a written claim for such refund with the school district within ninety days of the mailing of such notice, such refund shall be forfeited and shall revert to the school district to be utilized for capital facilities or improvements that will benefit the dwelling unit for which the fee was paid. Council may extend the ten-year expenditure deadline set forth herein upon the request of the school district for good cause shown and following public hearing.

16.39.060 Report and review by school district and city.

- A. The school district shall submit to the city an annual report on or before October 1st of each year describing the school district's receipt of land dedications and expenditure of the in-lieu fees during the preceding fiscal year. This report shall include:
 - 1. A review of the assumptions and data upon which the methodology is based, including student generation ratios, and attendance area boundaries;
 - 2. Statutory changes or changes in the school planning standards or in city policies related to construction of school facilities; and
 - 3. Any recommended modifications to the land dedication and in-lieu fee schedule.
- B. Council shall, at least every two years, review and update, as necessary, the land dedication and in-lieu fee schedule requirements as set forth in the intergovernmental agreement.

Chapter 16.40

IMPROVEMENTS

Sections:

16.40.005	Purpose.
16.40.010	Installation of improvements.
16.40.015	Grading permit allowed.
16.40.020	Area boundaries establishment.
16.40.030	Financial security.
16.40.040	Reserved.
16.40.050	Time for completion.
16.40.060	16.40.070 Dedication on completion.
16.40.080	Inspection.
16.40.090	Warranty.

16.40.005 Purpose.

The purpose of this chapter is to set forth procedures for installing public infrastructure improvements and financially securing incomplete public improvements, establishing required times for completion or performance of public improvements, and establishing the required warranty for such improvements.

16.40.10 Installation of improvements.

- A. Preliminary and Final Improvements. Except as provided in subsection B in this section, prior to the issuance of any partial building permit (i.e., footings and foundation permit) in any area within any annexation or subdivision, all preliminary improvements shall be installed by the applicant in compliance with plans and specifications approved by the City. Prior to the issuance of any full building permit within any annexation or subdivision, all final improvements shall be installed by the applicant in compliance with plans and specifications approved by the city. A financial guarantee, satisfactory to the city, of such installation may be made in-lieu of constructing the required final improvements prior to issuance of the full building permit. The improvements shall be made in the area in which the permit is requested, the boundaries of which shall be as provided in this chapter, and such improvements shall be connected to existing improvements of a like nature so as to become a part of the respective systems. As used in this section, "preliminary improvements" shall include, but limited to, all-weather street surfaces, street name signs, traffic-control signs, curbs and gutters, water distribution improvements, sewer collection improvements, electric distribution improvements (including local street lighting), and storm water control facilities. "Final improvements" shall include, but not limited to, street pavement, pavement markings, permanent traffic control and street names signs, sidewalks, landscaping, and survey monuments. All improvements shall be in compliance with the final construction and development plans approved by the city.
- B. Exceptions. The director may issue a partial or full building permit in an area within an annexation or subdivision prior to installation or preliminary or final improvements as otherwise required pursuant to subsection A in this section, provided

the applicant demonstrates that unanticipated difficulties beyond the applicant's control have delayed completion of preliminary or final improvements and the Director makes the following findings:

1. Issuance of any such building permit will not create a threat to public health, safety, or welfare.
2. The applicant has demonstrated that there is a reasonable probability that the improvements otherwise required pursuant to subsection (A) will be completed within six (6) months of the issuance of any such partial or full building permit.
3. Issuance of any such partial or full building permit has been made subject to the following conditions:
 - a. Adequate all-weather access to the construction site shall be provided for fire and emergency vehicles. Such access shall be subject to approval by the fire department.
 - b. All underground electric lines and equipment shall be installed unless such installation is waived by the water and power department.
 - c. Temporary erosion control measures shall be installed on the site in compliance with city standards.
 - d. Prior to delivering to the construction site of any combustible building materials, adequate water supply for fire protection shall be provided to the construction site. Such water supply system shall be subject to approval by the water and power department and fire department.
 - e. Or any other conditions determined to be necessary by the Director to avoid a threat to public health, safety, or welfare, including the posting of financial security in a form satisfactory to the City and in the amount of one hundred ten (110) percent of the improvements otherwise required pursuant to subsection (A) of this section.

C. Temporary Certificates of Occupancy.

1. Non-Residential Uses. The director may issue a temporary certificate of occupancy for a non-residential use prior to the installation of all preliminary improvements provided the Director determines that the issuance of any such certificate of occupancy will not create a threat to public health, safety, or welfare and the requirements in subsection B, in this section, have been met.
2. Residential Uses. The director may issue a temporary certificate of occupancy for residential uses only after the preliminary improvements have been installed pursuant to subsection (A) of this section and the Director determines that the issuance of any such certificate of occupancy will not create a public health, safety, or welfare.

D. Clear Certificates of Occupancy. No inspections shall be made by the City for purposes of issuing a clear certificate of occupancy until all final improvements and other requirements imposed by the provisions of this code or by the City at the time any annexation map or subdivision plat is approved have been installed or performed by the applicant in compliance with plans and specifications approved by the City engineer and as required by this code or any ordinance or resolution passed by the City.

E. Notification. The Director shall notify City Council of any actions taken under subsections (B) or (C) of this section. (Ord. 4617 § 1, 2001)

16.40.015 Grading permit allowed.

Notwithstanding the provisions of the building code adopted by reference with modifications in Chapter 15.08, a grading permit may not be issued by the chief building official, but may be issued by the director for the following purposes only (1) for overlot grading associated with the construction of public improvements and/or overlot grading within a subdivision for which final construction drawings have been submitted and are being reviewed by the city and the applicant has addressed at least one round of review comments, and/or (2) for overlot grading that meets the criteria for the issuance of an overlot grading permit set forth in the building code adopted by the city, provided that the director finds (i) that the grading activity will not disturb any natural areas as defined in the Comprehensive Master Plan, and (ii) that the grading activity will not disturb any environmentally sensitive areas as defined in the Code. Prior to the commencement of any grading activities on a site containing environmentally sensitive areas, as defined in this Code, temporary construction fencing shall be installed around the drip line of mature trees, vegetation, riparian areas, and other sensitive areas identified for preservation on plans approved by the city. (Ord. 5107 § 1, 2006)

16.40.020 Area boundaries establishment.

The exterior boundaries of such area shall be established by the person applying for such permit, subject to the approval of the city engineer, and shall include not less than ten lots or a complete cul-de-sac street. Implementation of the landscape plan shall be done in accordance with the phasing plan or as otherwise approved by the current planning manager. (Ord. 4444 § 1 (part), 1999; Ord. 4298 § 1 (part), 1997)

16.40.30 Guarantee form and deposit.

The guarantee required by this section shall be in one of the following forms and shall be deposited prior to the issuance of the first full building permit described in Section 16.40.010:

- A. A surety bond deposited with the city in an amount not less than one hundred ten percent of the estimated cost of complete installation of all final improvements and compliance with the conditions and requirements of the city in the area established as provided in Section 16.40.020. Such bond shall be conditioned upon the complete installation of such improvements and compliance with such conditions and requirements within the time and in the manner required by this code or any ordinance or resolution of the city council.
- B. A deposit of cash, certified funds from a financial institution, or other collateral, acceptable to the city, in an amount not less than one hundred ten percent of the estimated cost to complete the installation of all final improvements in compliance with the conditions and requirements of the city in the area established as provided in Section 16.40.020, shall be deposited by the developer with the city or with any financial institution acceptable to the city. Such deposit shall be subject to an escrow agreement whereby the holder of such cash, certified funds or collateral shall pay all or any portion thereof to the city upon the demand of the city as may be required to complete the installation of such improvements and compliance with such conditions

and requirements within the time and in the manner required by this code or any ordinance or resolution of the city council. Any deposit of cash or certified funds made to the city shall be subject to an agreement whereby the city retains all, or any portion thereof, including any interest or other income earned therein, as may be required to complete the installation of such improvements and compliance with such conditions and requirements within the time and in the manner required by this code or any ordinance or resolution of the city council.

An agreement between the city, the applicant and a financial institution acceptable to the city, in which the financial institution agrees to extend a letter of credit to the applicant, which letter of credit shall be in an amount not less than one hundred ten percent of the cost of complete installation of all final improvements in compliance with the conditions and requirements of the city council in the area established, as provided in Section 16.40.020. Said contract shall provide, in part, that the city shall have the right to call upon said line of credit, in the event of default on the part of the applicant, to complete the installation of and payment for such improvements and to insure compliance with such conditions and requirements within the time and the manner required by this code or any ordinance or resolution of the city council. Said agreement shall be in such form as may be required by the city and shall be accompanied by other documents, including, but not limited to, a letter of credit from the financial institution, as may be required by the city.

- C. No interest or other income earned on the cash or collateral deposited with the city under this Section shall be paid by the city,. (Ord. 4444 § 1 (part), 1999; Ord. 4298 § 1 (part), 1997)

16.40.050 Time for completion.

The required time for completion or performance of all final improvements, conditions, and requirements shall be as soon as practicable, but no later than one year from the date of application for the first full building permit; provided, that the director may extend such time for completion or performance. To establish the time of completion of the final improvements, conditions and requirements; the developer shall prepare a detailed construction schedule and provide a financial security to the City for approval at a meeting held prior to the start of any public improvement construction as defined in Development Standards. Upon completion or performance of final improvements, conditions and requirements within the required time, and upon the approval and acceptance thereof by the city, the city shall cause such bond, deposit, escrow agreement or letter of credit to be released within fifteen days after written notification to the city that such improvements, conditions and requirements are completed or performed. If the improvements, conditions and requirements are not completed or performed within the required time, the city shall cause the proceeds of the bond, cash deposit, other collateral or moneys in escrow or extended through a letter of credit to be used to complete the same; provided, however, that in the case of financial security held with respect to incomplete improvements, the city may cause the proceeds of the financial security to be used to complete such work or improvements, for the correction or modification of building site conditions, removal of incomplete improvements, and/or installation of fencing, as may be necessary or appropriate in the city's judgment to protect the public's health, safety, and welfare, and the city shall have no obligation to complete any building site improvements in accordance with approved plans. The city may cause a portion of such financial security to be released as such

improvements, conditions and requirements are completed or performed and approved by it which shall be released within thirty days after written notification to the city that such improvements, conditions and requirements are completed or performed.

16.40.060 Financial security - Approval.

All surety bonds, letters of credit and escrow agreements shall be accompanied by an incomplete public improvements agreement approved as to form and sufficiency by the city attorney. Surety bonds shall be deemed sufficient if executed by a corporate surety licensed to do business in the state of Colorado, and countersigned by a resident agent of such corporate surety. (Ord. 4444 § 1 (part), 1999; Ord. 4298 § 1 (part), 1997)

16.40.070 Dedication on completion.

Upon the completion and written acceptance by the city of the same, all such improvements shall be appropriately dedicated to public use and maintenance. (Ord. 4444 § 1 (part), 1999; Ord. 4298 § 1 (part), 1997)

16.40.080 Inspection.

All improvements shall be inspected as provided for in the development standards and guidelines. (Ord. 4444 § 1 (part), 1999; Ord. 4298 § 1 (part), 1997)

16.40.090 Warranty.

- A. All workmanship and materials (except materials provided by the city) for all required public improvements installed by the applicant (including, but not limited to the water supply system, sanitary sewage disposal system, storm drainage facilities, electrical distribution system, curbs, gutters, street pavement, sidewalks, street signs, survey monuments, landscaping, and pavement markings) shall be warranted to be free from defects by the applicant for a period of two years from the date of acceptance of the required improvement by the city, provided, that such defects are not the result of public abuse, misuse or natural causes, as determined by the city. In the event any other provision of this code or specifications adopted pursuant thereto shall require a warranty of workmanship or materials or both for a different period of time, that provision regarding the longer period of warranty shall govern. City inspection shall not relieve the property owner of such warranty of workmanship and materials. Upon notification, the applicant shall promptly make all adjustments, repairs, or replacements in accordance with a repair plan approved by the city, which repair, in the opinion of the city, arose out of defects and became necessary during the warranty period. The cost of all materials, parts, labor, transportation, supervision, special tools, and supplies required for replacement or repair of parts and for correction of defects shall be paid by the contractor or by the holder of the approved financial security.
- B. This warranty shall be extended to cover all repairs and replacements furnished under the warranty, and the period of the warranty for each repair or replacement shall be extended one year after installation or completion of the repair or replacement.
- C. If, within fifteen days after the city has notified the applicant of a defect, failure, or abnormality in the work, the applicant has not started to make the necessary repairs or adjustments or submitted a written objection to the city's request for repair work, the city is hereby authorized to make the repairs or adjustments or to order the work

be done by a third party. The cost of the work shall be paid by the applicant. The director may authorize a temporary repair if necessary due to weather conditions or materials availability.

- D. If an applicant has cause to object to the city's request for repair work, such objection shall be made in writing to the director. If the director confirms that the repair is necessary because of a defect in the applicant's materials or workmanship, the applicant shall complete the repairs as directed by the city, or appeal the director's decision as set forth in Section 16.16.040.
- E. In the event of an emergency, where in the judgment of the city, delay would cause serious loss or damage, repairs, or adjustments may be made by the city or a third party chosen by the city without advance notice to the applicant, the cost of the work shall be paid by the applicant or the holder of the financial security.
- F. Within thirty days prior to expiration of the warranty period, the applicant shall request, in writing, that the city verify that no defects exist. The city shall, within thirty days, inspect the completed work and, if no defects, failures, or abnormalities are observed or detected, the city shall cause the bond, deposit, escrow agent, or letter of credit to be released.
- G. In the event that the applicant fails to complete any required repair work, or fails to reimburse the city for legitimate repair work performed by the city on behalf of the applicant, or fails to enter into an agreement with city regarding the satisfactory resolution of the obligation, the applicant shall be prohibited from participating in any further land development activity in the city until such repair, reimbursement, or agreement is completed to the satisfaction of the director. Both the developer of the project and the contractor performing the defective work shall be subject to this restriction. The developer shall be prohibited from receiving any additional building permits for any lots owned by the developer, as well as from submitting or continuing the processing of any land development applications for review and consideration by the city. The contractor shall be subject to the issuance of a stop work order issued by the city to the contractor for any work within any city right-of-way or easement. (Ord. 5581 § 13, 2011; Ord. 4444 § 1 (part), 1999; Ord. 4298 § 1 (part), 1997)

Chapter 16.41

ADEQUATE COMMUNITY FACILITIES (ACF)

Sections:

16.41.010	Purpose.
16.41.020	Applicability.
16.41.030	Vested rights.
16.41.040	Processing of a community facilities data form.
16.41.050	Recommendation of adequacy by development review team.
16.41.060	Determination of adequacy.
16.41.070	Effect and expiration of determination of adequacy.
16.41.080	Criteria for determining availability and adequacy of community facilities.
16.41.090	Administration.
16.41.100	Fire protection and emergency rescue services.
16.41.110	Transportation facilities.
16.41.120	Water facilities and services.
16.41.130	Wastewater facilities and services.
16.41.140	Stormwater facilities.
16.41.150	Power.

16.41.010 Purpose.

It is the purpose of this chapter to adopt a program to ensure that community facilities needed to support new development meet or exceed the adopted level of service standards established by the city; to ensure that no development approval, subdivision approval, or building permits are approved or issued which cause a reduction in the levels of service for any community facilities below the adopted level of service established by the city; to ensure that adequate community facilities needed to support new development are available concurrent with the impacts of such development; to establish uniform procedures for the review of the adequacy of community facilities needed to service new development and new subdivisions; to facilitate implementation of goals and policies as set forth in the comprehensive master plan relating to adequacy of community facilities; and to ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

16.41.020 Applicability.

The provisions of this chapter shall apply to all applications for development approval of a preliminary or final development plan, non-residential site plan, residential site plans containing more than twelve dwelling units, special review use, or preliminary subdivision plat submitted to the city after May 2, 1996, with the exception of redevelopment areas as specifically identified in Title 18. No application for development approval shall be approved unless a positive determination of adequacy or a positive determination of adequacy subject to conditions has been made by the city in accordance with this chapter and the application is in conformance with all other requirements necessary for approval of the proposed development. This chapter shall not apply to any use, development, project, structure, fence, sign, or activity that does not result in either the creation of a new commercial or industrial use structure, or

residential (more than twelve dwelling units); or an increase in floor area of an existing commercial or industrial use structure or an increased number of dwelling units in an existing multi-family residential structure.

16.41.030 Vested rights.

- A. Nothing in this chapter shall limit or modify the rights of an applicant to complete any development for which the applicant has obtained and possesses a vested right to undertake and complete the development pursuant to C.R.S. § 24-68-101 *et seq.*, as implemented by Chapter 18.72 or pursuant to Colorado law.
- B. If an applicant has, by decisions in reliance on prior approvals and regulations, obtained and possesses vested rights that by law prevent the city from changing those regulations in a manner adverse to the applicants interests, nothing in this chapter shall be deemed to authorize the city to abridge those rights.
- C. A determination of adequacy shall not affect the otherwise operable and applicable provisions of this title or Title 18, all of which shall be operative and remain in full force and effect without limitation.

16.41.040 Processing of a community facilities data form.

- A. Submission Requirements. All applications for development approval of a preliminary or final development plan, non-residential site plan, residential site plans containing more than twelve dwelling units, special review use, and preliminary or final subdivision plat shall be accompanied by a community facilities data form which shall include sufficient information to allow the city to determine the impact of the proposed development on community facilities pursuant to the procedures of this chapter. The community facilities data form shall be a form prepared by the city. The information required shall include, but shall not be limited to:
 - 1. the total number and type of structures or dwelling units, and gross density of the proposed development;
 - 2. the location of the proposed development;
 - 3. an identification of the community facilities impacted by the proposed development;
 - 4. if an applicant seeks an exemption from the requirements of this chapter based upon a claim that the applicant has obtained and possesses a vested right to undertake and complete the development, information sufficient to permit the city to determine the validity of the applicant's claim of exemption;
 - 5. any information required by this chapter for specific city facilities; and
 - 6. any other appropriate information as may be deemed necessary by the city in evaluating the adequacy of community facilities consistent with the provisions of this chapter.
- B. If the community facilities data form is incomplete or the submission requirements have not been satisfied, the development review team shall so notify the applicant of any deficiencies in writing. If the community facilities data form is complete and the submission requirements have been satisfied, the development review team shall evaluate the proposed development or subdivision for compliance with the applicable adopted level of service standards and shall submit a recommendation regarding the adequacy of the community facilities pursuant to Section 16.41.050.

16.41.050 Recommendation of adequacy by development review team.

- A. Upon receipt of a completed community facilities data form, the development review team shall evaluate the proposed development or subdivision, including, at a minimum, an evaluation of the following:
 - 1. The number and type of structures or units proposed by the applicant;
 - 2. The proposed timing and phasing of the development, if applicable;
 - 3. The specific community facilities impacted by the proposed development;
 - 4. The extent of the impact of the proposed development on all community facilities;
 - 5. The capacity of existing community facilities serving the proposed development which will be impacted by the proposed development, based on the adopted level of service;
 - 6. The demand on the existing capacity of community facilities from all existing and approved development;
 - 7. The availability of existing capacity to accommodate the proposed development;
 - 8. If existing capacity is not available, any capacity that is planned to be added and the year in which such planned capacity is projected to be available to serve the proposed development; and
 - 9. If the applicant seeks an exemption from the requirements of this chapter based upon a claim that the applicant has obtained and possesses a vested right to undertake and complete the development, a determination of vested rights from the current planning division and an opinion from the city attorney.
- B. If the development review team concludes that each community facility will be available concurrent with the impacts of the proposed development or subdivision at the applicable adopted levels of service, the development review team shall make a positive recommendation of adequacy.
- C. If the development review team concludes that any community facility will not be available concurrent with the impacts of the proposed development at the applicable adopted level of service based upon existing community facilities, the development review team may make a negative recommendation of adequacy or, in the alternative, may make a positive recommendation of adequacy with appropriate conditions consistent with the following:
 - 1. Deferral of further development approval until all community facilities are available and adequate if community facilities are not available and adequate to meet the adopted level of service for the development proposal;
 - 2. Reduction of the density or intensity of the proposed development, including conditions regarding the phasing of the development, to a level consistent with the available capacity of the community facilities; or
 - 3. Provision by the applicant of the community facilities necessary to provide capacity to accommodate the proposed development at the adopted level of service and at the time that the impact of the proposed development will occur; and
 - 4. Any other reasonable conditions to ensure that all community facilities will be adequate and available concurrent with the impacts of the proposed development, or concurrent with the planned extension of the community facility by the city.
- D. A written recommendation of adequacy by the development review team shall include a report addressing and summarizing the development review team's evaluation required by Section 16.41.050A.

- E. The development review team's recommendation of adequacy shall be made part of any staff report accompanying any administrative, planning commission, or council review of applications for development approval.

16.41.060 Determination of adequacy.

Following receipt of the recommendation of adequacy and as part of the city's procedures for review and final approval of any application for development approval, and subject to compliance with all other standards applicable to the application and requested approval, council, or other board, commission, or administrative staff member vested with authority to approve development may: (i) make a positive determination of adequacy; or (ii) make a negative determination of adequacy; or (iii) make a positive determination of adequacy with appropriate conditions consistent with the conditions contained in Section 16.41.050C.

16.41.070 Effect and expiration of determination of adequacy.

- A. A positive determination of adequacy shall be deemed to indicate that community facilities are or will be available and adequate to serve the proposed development until such time that the determination of adequacy expires. No application for development approval of a preliminary or final development plan, non-residential site plan, residential site plans containing more than twelve dwelling units, special review use, or preliminary subdivision plat shall be approved unless a positive determination of adequacy or a positive determination of adequacy subject to conditions has been made by the city.
- B. A positive determination of adequacy issued pursuant to this chapter shall be deemed to expire at the earlier of: (i) the expiration, waiver, lapse, or revocation of the development approval for which the positive determination of adequacy was issued; or (ii) failure by the applicant to timely comply with the conditions attached to a positive determination of adequacy; or two years following the date of issuance of a positive determination of adequacy.

16.41.080 Criteria for determining availability and adequacy of community facilities.

- A. Level of service standards. Compliance with level of service standards shall be measured in accordance with the standards set forth in to this chapter or adopted development standards, as they may be amended from time to time as provided in this chapter.
- B. Range of impacts. Any proposed development which could result in a range of potential impacts shall be reviewed as if the greatest impact shall result. The review and evaluation of community facilities required by this chapter shall compare the capacity of community facilities to the maximum projected demand which may result from the proposed development.
- C. Existing demand and capacity. Where the adequacy and availability of a community facility is based upon an evaluation of available capacity, the existing demand upon the community facility shall be determined by adding together: (i) the existing demand placed upon the community facility from all users whether within or outside of the city; (ii) the projected demand for the community facility created by the anticipated completion of approved but uncompleted development; and (iii) the projected demand upon the community facility created by the anticipated completion of any proposed developments for which an adequate community facilities data form has been submitted to the current planning division.

- D. Capacity improvements. No improvement proposed or undertaken to increase existing capacity of a community facility or an improvement proposed to be made to avoid a deterioration in the adopted levels of service shall be accepted by the city unless the improvement is a planned capital improvement included within the city's capital improvement program, appropriate facility master plan or development standards, or unless the improvement is determined by council to directly and substantially advance one or more established goals or policies of the city. An applicant's commitment to construct or expand a community facility prior to the issuance of a building permit may be included as a condition of the determination of adequacy and any such commitment shall include, at a minimum, the following:
1. A finding that the planned capital improvement is included within the capital improvement program, appropriate facility master plan or development standards;
 2. An estimate of the total funding needed to construct the planned capital improvement and a description of the cost associated therewith;
 3. A schedule for commencement and completion of construction of the planned capital improvement with specific target dates for multi-phase or large-scale capital improvement projects;
 4. A statement, based on analysis, that the planned capital improvement is consistent with the comprehensive master plan; and
 5. At the option of the city and pursuant to an agreement between the city and the applicant, and only if the planned capital improvement will provide capacity exceeding the demand generated by the proposed development, reimbursement to the applicant for the pro rata cost of providing the excess capacity.

16.41.090 Administration.

- A. Rules and regulations. Council may adopt, by ordinance or resolution, any necessary rules, regulations, administrative guidelines, forms, worksheets and processes to efficiently and fairly administer and implement this chapter.
- B. Administrative fees. Council may establish, by ordinance or resolution, fees and a fee schedule for each of the administrative procedures, determinations, approvals and certifications required by this chapter.
- C. Conflict. To the extent of any conflict between the City Charter, the Code, ordinances, resolutions, or regulations and this chapter, the more restrictive is deemed to be controlling. This chapter is not intended to amend or repeal any existing ordinance, resolution, or regulation.
- D. Appendices and data review. All appendices referenced in this chapter are incorporated by reference as if set forth in this chapter in their entirety. Council may amend appendices referenced in this chapter by resolution.

16.41.100 Fire protection and emergency rescue services.

Fire protection and emergency rescue services shall be deemed to be adequate and available for a proposed development if such services for the development meets or exceeds the applicable adopted level of service provided in Appendix A, and:

- A. Adequate fire protection services and emergency rescue services are currently in place or will be in place prior to issuance of a building permit for the development; or

- B. Provision of adequate fire protection services and emergency rescue services are a condition of the development application approval and are guaranteed to be provided at or before the approval of a final plat or issuance of the first building permit for the proposed development; or
- C. Facilities necessary for providing adequate fire protection services and emergency rescue services are under construction and will be available at the time that the impacts of the proposed development will occur; or
- D. Provision of fire protection services and emergency rescue services are guaranteed by an executed and enforceable development agreement which ensures that such services will be in place at the time that the impacts of the proposed development will occur.

16.41.110 Transportation facilities.

Transportation facilities shall be deemed to be adequate and available for a proposed development if the development meets or exceeds the applicable adopted level of service provided in Section 4.5 of the Larimer County Urban Area Street Standards, which may be amended by resolution, and:

- A. All transportation facilities are currently in place or will be in place prior to issuance of a building permit for the development; or
- B. Provision of transportation facilities are a condition of the development approval and are guaranteed to be provided at or before the approval of a final plat or issuance of the first building permit for the proposed development; or
- C. Transportation facilities are under construction and will be available at the time that the impacts of the proposed development will occur; or
- D. Provision of transportation facilities needed to achieve the adopted level of service are guaranteed by an executed and enforceable development agreement which ensures that such facilities will be in place at the time that the impacts of the proposed development will occur; or
- E. Transportation facilities needed to achieve the adopted level of service are included in the capital improvements program; and
 - 1. The capital improvements program contains a financially feasible funding system from available revenue sources which are adequate to fund the streets required to serve the proposed development, and
 - 2. The transportation facilities are likely to be constructed and available at the time that the impacts of the proposed development will occur, or at the time the city extends the transportation facilities to provide a logical link to the project.

16.41.120 Water facilities and services.

Water facilities and services shall be deemed to be adequate and available for a proposed development if such facilities and services for the development meet or exceed the applicable adopted level of service provided in Appendix A, at the end of this chapter, and:

- A. A supply of raw water adequate to serve the projected needs of the proposed development is owned or controlled by the city and such water supply is or will be available for use by the proposed development prior to the issuance of the first building permit within the proposed development; and
- B. Sufficient raw water storage capacity, including on-site and off-site capacity, is available to serve the proposed development and such capacity is or will be available for use by the

proposed development prior to the issuance of the first building permit within the proposed development; and

- C. Sufficient water treatment capacity is available or, through new capacity improvements will be made available, to ensure a supply of potable water to the proposed development prior to the issuance of the first building permit within the proposed development; and
- D. Sufficient water main capacity will be available or, through new capacity improvements will be made available, to serve the proposed development prior to the issuance of the first building permit within the proposed development.

16.41.130 Wastewater facilities and services.

Wastewater facilities and services shall be deemed to be adequate and available for a proposed development if such facilities and services meet or exceed the applicable adopted level of service provided in Appendix A, at the end of this chapter, and:

- A. The city's central wastewater system or the central wastewater system of a sanitary sewer district is capable of connection to the proposed development; and
- B. Sufficient wastewater treatment capacity is available or, through construction of new capacity improvements will be made available, to treat wastes generated by the proposed development prior to the issuance of the first building permit within the proposed development; and
- C. Sufficient wastewater trunk line capacity is available and, where required, lift station capacity is available to serve the proposed development prior to the issuance of the first building permit within the proposed development.

16.41.140 Stormwater facilities.

Stormwater facilities shall be deemed to be adequate and available for a proposed development if the development meets or exceeds the applicable adopted level of service provided in Appendix A, at the end of this chapter, and:

- A. The proposed development meets all applicable requirements contained in the stormwater master plan, including the stormwater criteria manual; and
- B. The proposed development provides for adequate major drainageways to convey stormwater flows from a one hundred year storm event which will minimize property damage; and
- C. The proposed development meets all applicable drainage requirements of the city.

16.41.150 Power.

Power facilities shall be deemed to be adequate and available for a proposed development if the development meets or exceeds the applicable adopted level of service provided in Appendix A, at the end of this chapter, and the proposed development will obtain utility services from the city through a system meeting all engineering and design standards applicable to the utility.

**See APPENDIX A - TO LOVELAND ADEQUATE COMMUNITY FACILITIES
ORDINANCE #4320**

**See TABLE 2.3 - FIRE PROTECTION STANDARDS CITY OF LOVELAND,
COLORADO**

TABLE 2.3
FIRE PROTECTION STANDARDS
CITY OF LOVELAND, COLORADO

	<u>EXISTING</u> Fire Station 5 Minute Service Areas or areas of CONVERGENCE	<u>CONCEPTUAL</u> Fire Service Area	<u>BEYOND</u> Existing, Conceptual Fire Service Area	<u>URBAN/ WILDLAND</u> (1)(6) Interface Area No Station Planned
▪ Outside Strobe Light	Yes	Yes	Yes	Yes
▪ Confirmed and Sustainable Access	Yes	Yes	Yes	Yes
▪ Interconnection of Subdivisions	Yes	Yes	Yes	Yes
▪ Sprinklers (NFPA Standards) (5)	(2)	(2)	(2)	(2)
▪ Ignition Resistant or Non-Combustible Exterior Construction Materials				Yes (3)
▪ Fuel Management (Include in Covenants)				Yes
▪ “Rate of Rise” Heat Detectors in Garage/Attic Areas (4)		Yes	Yes	Yes

- (1) Four hundred foot maximum length of deadends.
- (2) Any structure with a gross area of five thousand square ft. or more shall be fully sprinklered in accordance with NFPA. Attached garages are excluded (single family dwellings only) when calculating the gross square footage. In addition, residential sprinklers shall be required as otherwise provided by the fire code, including, but not limited to, the requirement that sprinklers shall be provided for all residences located on dead end streets more than four hundred feet from the street entrance or where street width is less than thirty-four inch flow line to flow line.
- (3) Ignition resistant or non-combustible exterior construction materials shall be used in accordance with Chapter 5 of the International Fire Code Institute, Urban Wildland Interface Code.
- (4) Not required in garage when fire sprinklers are provided.
- (5) The Loveland Fire Rescue Authority believes the use of residential fire sprinkler systems is the best method of life safety where fire stations are not located within 1½ miles or a five minute engine company response time, as defined in the Fire Protection Master Plan. There is a certain risk assumed when homes are built without residential fire sprinkler systems.
- (6) Urban/wildland interface area is that area defined under Section 15.08.020, Table 32A, footnote 3 of the Code.

Notes:

- When any approved lot is partially “in” an EXISTING, or a CONCEPTUAL fire service area, the entire lot shall be deemed ‘in’ for the purposes of determining the ACF fire protection standards. The proposed building must be within 1½ miles travel distance of a fire station based on existing or currently developed ‘public travel routes’ that meet existing development standards. The burden of proof falls on the applicant to verify travel distance is within 1½ miles.
- CONCEPTUAL fire service area is denoted on a map indicating where future fire service may be provided as development occurs. Fire station sites shall be determined by the Loveland Fire Rescue Authority (conditioned on approval of council) based on current growth/development patterns. Fire station locations are subject to change based on current development/growth patterns.
- This plan will be reviewed and modified accordingly every three years in conjunction with the Fire Protection Master Plan.

Chapter 16.42

STREET MAINTENANCE FEE

Sections:

- 16.42.010 Purpose.**
- 16.42.020 Definitions – Additional regulations.**
- 16.42.030 Use of street maintenance fee.**
- 16.42.040 Street maintenance fee imposed.**
- 16.42.050 Billing for street maintenance fee.**
- 16.42.060 Enforcement.**

16.42.010 Purpose.

- A. The purpose of this chapter is to establish a street maintenance fee on users of city utility services within the boundaries of the city. The amount of the fee as established herein is intended to defray the costs of properly maintaining city streets.
- B. It is the intent of council that the amounts collected by the imposition of the street maintenance fee shall be set aside and utilized for the sole purpose of defraying the costs of maintaining the streets located within the boundaries of the city.

16.42.020 Definitions – Additional regulations.

- A. As used in this chapter:
 - “Customer” means a person to whom the city furnishes stormwater service.
 - “Maintenance” means activities performed for the upkeep and repair of the city’s streets, including but not limited to patching, crack sealing, seal coating, overlaying, resurfacing, and reconstruction.
- B. The city manager is authorized to issue regulations not inconsistent with this chapter to further define such terms as may be necessary or desirable for the administration of this chapter, and to establish additional procedures as may be necessary or desirable for the administration of this chapter.

16.42.030 Use of street maintenance fee.

- A. All moneys received from the street maintenance fee imposed pursuant to this chapter shall be paid into the general fund, and shall be used exclusively to pay the cost of maintenance of the city’s street system and not for any general city purposes.
- B. To the extent that the funds derived from the street maintenance fee imposed pursuant to Section 16.42.040 are not sufficient to properly maintain the city’s street system, the city may augment such funds with other city funds as may be determined by council.

16.42.040 Street maintenance fee imposed.

- A. There is hereby imposed on each customer within the city a street maintenance fee.
- B. The amount of the fee shall be as set by council by resolution and shall be based upon the customer’s use of the lot, tract, or parcel of land receiving city services, the city’s estimate of the relationship between such use and the generation of vehicular traffic on the city’s street system, and the city’s estimate of the cost of maintenance of the city’s street system as a result of such traffic.

- C. The amount of the fee may be changed from time to time based upon revised estimates of the costs of maintenance of the city's street system, revised categories of uses and traffic generation factors, and other factors reasonably related to the needs created or contributed to by customers who are subject to the fee.
- D. The resolution establishing the amount of the fee may set forth charges pertaining to any delinquency in payment of the fee, including but not limited to late payment penalties and returned check charges, and collection charges.

16.42.050 Billing for street maintenance fee.

The street maintenance fee established by this chapter shall be billed and collected with the monthly stormwater bill for each customer utilizing such service.

16.42.060 Enforcement.

Any fee due under this chapter which is not paid when due may be recovered in an action at law by the city. The city may pursue any remedies or penalties provided by law necessary to carry out the provisions of this chapter.

Chapter 16.43

AFFORDABLE HOUSING

Sections:

16.43.010	Purpose.
16.43.020	Affordable housing fund established.
16.43.030	Revenue sources for affordable housing fund.
16.43.035	Affordable housing developments -- designation.
16.43.040	Design standards for affordable housing.
16.43.050	Expedited development review for affordable housing developments.
16.43.060	Dispersion of affordable housing units.
16.43.070	Designation of affordable housing units required.
16.43.080	Deed restriction for affordable housing units required.
16.43.100	Use tax credit for qualified affordable housing units.
16.43.110	Annual review of affordable housing ownership.

16.43.010 Purpose.

The purposes of this chapter are to:

- A. Implement the housing goals of the city's affordable housing policy as adopted by resolution of council;
- B. Promote the construction of housing that is affordable to the community's workforce;
- C. Retain opportunities for people that work in the city to also live in the city;
- D. Maintain a balanced community that provides housing for people of all income levels; and
- E. Promote availability of housing options for low and moderate income residents and for special needs populations.

16.43.020 Affordable housing fund established.

There is created a special fund to be known as the affordable housing fund for the purpose of receiving all revenues related to affordable housing programs and services. The fund and any interest earned in that fund shall be for the specific use of those programs and services as determined by council.

16.43.030 Revenue sources for affordable housing fund.

The affordable housing fund shall be funded through revenues derived from payments to the city as set forth in Section 16.43.080B., from gifts or grants, and from appropriations from the general fund or other funds, as council may from time-to-time establish or approve.

16.43.035 Affordable housing developments -- designation.

All applications for designation of a housing development as affordable shall be submitted to the affordable housing commission for review and recommendation to council. Council shall review such applications and make the final determination to approve, approve with conditions, or deny such applications by resolution.

16.43.040 Design standards for affordable housing.

The design standards set forth in Chapter 16.24 may be modified for subdivisions which are affordable housing developments in accordance with the Site Development Performance Standards and Guidelines for affordable housing found in Chapter 7 of the Site Development Performance Standards and Guidelines, so long as the design of the subdivision remains at all times consistent with the overall health, safety, and welfare of the future residents of the subdivision. All design modifications for affordable housing developments shall be subject to the approval of the director.

16.43.050 Expedited development review for affordable housing developments.

The city shall process all applications for affordable housing developments on an expedited time line. Complete applications for affordable housing developments shall be placed ahead of all other complete applications in the review process. All required reviews of applications for affordable housing developments by city staff members and city boards and commissions shall be accomplished in as expeditious a manner as possible consistent with good planning principles.

16.43.060 Dispersion of affordable housing units.

Where affordable housing units are part of a residential development also containing market-rate housing units, the planning commission shall review the preliminary plat to ensure that the affordable housing units shall, to the extent possible without creating practical difficulties, be mixed with the market-rate housing units and not clustered together or segregated from market-rate housing units in the development. The director, in all instances, shall have the discretion to approve the final location and distribution of affordable housing units in the development on the final plat, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat.

16.43.070 Designation of affordable housing units required.

All development plans for affordable housing developments or that include affordable housing units shall indicate which dwelling units shall be constructed as affordable housing units. For single-family detached dwelling units, each lot upon which an affordable housing unit is to be constructed shall be designated on the development plan. For multi-family housing or duplex housing, the development plan shall indicate the percentage of units within the development that shall be constructed as affordable housing units. An affordable housing development may be developed in phases. For a phased development, each development plan shall indicate which dwelling units shall be constructed as affordable housing units. The director, in all instances, shall have the discretion to approve the number and location of affordable housing units within a phased development so long as the required percentage of affordable housing units is met. The director shall also have the authority to approve administrative amendments to development plans changing the location of affordable housing units designated on a development plan for non-phased developments, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat and with all other applicable provisions of this chapter.

16.43.080 Deed restriction for affordable housing units required.

- A. “For sale” units. No certificate of occupancy shall be issued for any “for-sale” single-family dwelling, multi-family building, or duplex containing an affordable housing unit(s) unless: (i) the applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; and (ii) a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the sale of the affordable housing unit(s) to any person or entity other than a qualifying household, and prohibiting the rental of the property, for a period of twenty years from the date of the initial purchase of the affordable housing unit(s) has been placed on the property. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (i) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender’s successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (ii) twenty years after the date of the initial purchase of the affordable housing unit by the initial qualifying household, provided there is no existing default under the deed restriction or encumbrance. All “for-sale” affordable housing units must be owner-occupied.
- B. “For rent” units. No certificate of occupancy shall be issued for any “rental” multi-family building or duplex containing an affordable housing unit(s) unless: (i) the applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; and (ii) a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the rental of the affordable housing units to any person(s) other than a qualifying household, and prohibiting the conversion of the affordable housing units from “rental” units to “for-sale” units without the prior written approval of the city, for a period of twenty years from the date of the issuance of a certificate of occupancy. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (i) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender’s successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (ii) twenty years after the date on which a certificate of occupancy was first issued for the property, provided there is no existing default under the deed restriction or encumbrance.
- C. Payment required. If an owner sells a “for sale” unit to a household that does not meet the city’s definition of a qualifying household, or rents a “for rent” unit to a household that does not meet the definition of a qualifying household at a rent defined as affordable by the Colorado Housing and Finance Authority Rent and Income Table, the owner shall pay the city the amounts set forth below.

1. If all or any part of the capital expansion fees or any other fees imposed by the city upon new development were waived in accordance with Section 16.38.080, the owner shall pay the city an amount as required by the following table:

Number of years from original sale (if a “for sale” unit), or number of years from the issuance of the first certificate of occupancy (if a “for rent” unit)	Amount owed to city
1	95% of amount waived
2	90% of amount waived
3	85% of amount waived
4	80% of amount waived
5	75% of amount waived
6	70% of amount waived
7	65% of amount waived
8	60% of amount waived
9	55% of amount waived
10	50% of amount waived
11	45% of amount waived
12	40% of amount waived
13	35% of amount waived
14	30% of amount waived
15	25% of amount waived
16	20% of amount waived
17	15% of amount waived
18	10% of amount waived
19	5% of amount waived
20	\$0

2. If capital expansion fees or any other fees imposed by the city upon new development were not waived in accordance with Section 16.38.080, the owner shall pay the city an amount as required by the following table:

Number of years from date of original sale	Percentage of net proceeds due to city
0-5 years	25%
5-10 years	20%
10-15 years	15%
15-20 years	10%

- D. Hardship waiver. Council may waive all or any portion of the repayment obligations set forth in this section on a case-by-case basis for good cause shown.

16.43.100 Use tax credit for qualified affordable housing units.

- A. Incentives provided. An applicant who meets all of the applicable criteria set forth in this section may receive, as a credit against any fees assessed by the city in connection with the construction of new qualified affordable housing units within the city, or in

connection with the reconstruction or remodel of an existing dwelling unit within the city, a sum equal to the building materials use tax paid to the city in connection with the construction of such units.

- B. Criteria to receive credit. The credit shall be issued at the time a certificate of occupancy is issued for the single family dwelling, multi-family building or duplex containing an affordable housing unit. In order to receive the use tax credit set forth in Subsection A., the applicant shall meet one of the following criteria:
 - 1. For “for-sale” dwelling units, the applicant shall provide documentation satisfactory to the director that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat.
 - 2. For “rental” dwelling units, the applicant shall provide documentation satisfactory to the director and the city attorney that the multi-family building or duplex containing affordable housing rental unit(s) are located in an affordable housing development and will provide affordable housing units to qualifying households for not less than twenty years.
- C. Application. Any person or entity that wishes to receive the incentive credit provided for in Subsection A., shall submit a completed use tax credit application to the community partnership administrator. The application shall be accompanied by documentation in support of the criteria set forth in this section. An application which fails to contain complete information and sufficient documentation to support the criteria set forth above shall not be considered. The completed application for the incentive credit shall be submitted and approved prior to issuance of a use tax credit and prior to issuance of a certificate of occupancy.

16.43.110 Annual review of affordable housing ownership.

Once each year, the community partnership administrator shall obtain an ownership report concerning each “for-sale” affordable housing unit for which the city has issued a certificate of occupancy. In the event an affordable housing unit is owned or occupied by a person other than the initial qualifying household, the current owner of the affordable housing unit shall submit documentation to the administrator verifying that the affordable housing unit is owned by a qualifying household and has not been rented. In the event the current owner fails to provide such information in a timely manner, or the information provided fails to support continuing compliance with the requirements set forth in this chapter, the administrator shall advise the current owner in writing that the payment set forth in Section 16.43.080B. shall be paid to the city. If the current owner fails to pay the city within thirty days of the date any decision is made by the administrator pursuant to this section, the city may institute appropriate legal proceedings to recover the amount owed. Any such funds recovered shall be placed in the affordable housing fund.

Title 17

ANNEXATION

Chapters:

17.04 Annexation of Land

Chapter 17.04

ANNEXATION OF LAND

Sections:

17.04.005	Purpose.
17.04.010	Definitions.
17.04.020	Procedure, in accordance with state law.
17.04.030	Annexation policies.
17.04.040	Annexation review standards.
17.04.050	Annexation review and approval procedure.
17.04.060	Submittal requirements.
17.04.070	Recording and filing requirements.
17.04.080	Corrections, errors, and omissions.

17.04.005 Purpose.

The purpose of this title is to establish policies and procedures for the annexing of property into the city limits.

17.04.010 Definitions.

As used in this title, all words and phrases shall be interpreted and defined in accordance with Section 16.08.010.

17.04.020 Procedure, in accordance with state law.

Annexation of lands to the city shall be in accordance with the laws of the State of Colorado in effect from time to time. An annexation shall be processed in accordance with this title unless otherwise specified. In the event that additional procedural requirements are imposed by applicable Colorado Revised Statutes, the director shall modify the annexation process to add any additional procedures required by Colorado Revised Statutes. (Ord. 4717 § 1 (part), 2002; Ord. 4299 § 1 (part), 1997)

17.04.030 Annexation policies.

- A. Annexation is a legislative act by council, and each application shall be considered on a case-by-case basis only.
- B. The proposed annexation shall be consistent with the philosophies of the Comprehensive Master Plan.
- C. The annexation application shall be accompanied by an application for initial zoning.

- D. The annexation application must disclose the public facility requirements of the property to be annexed, and how such requirements are to be satisfied by the property owner. These requirements may be satisfied by commitments of land dedication, payment of cash, construction of public facilities, or other method offered by the property owner in the annexation petition and accepted by council.
- E. The proposed annexation shall comply with other policies, terms, and special conditions that council might impose. (Ord. 4717 § 5, 2002; Ord. 4299 § 1 (part), 1997)

17.04.040 Annexation review standards.

Council need only consider the annexation application after approving a resolution finding that the application complies with the eligibility criteria contained in C.R.S. §§ 31-12-104 and 31-12-105. After making such a finding, council may consider the following:

- A. Public facilities and community services. Whether certain public facilities and/or community services are necessary and may be required as a part of the development of any territory annexed to the city in order that the public needs may be served by such facilities and services. These facilities include, but are not limited to, streets, sidewalks, bike lanes, bridges, parks and recreation areas, schools, police or fire station sites, water and wastewater, and storm drainage facilities. These community services include, but are not limited to fire and police protection, provision of water and wastewater services. Council shall not approve the annexation until such time that it determines that the current requirements for such public facilities and additional community services, as the city determines to be necessary and required, in the area proposed to be annexed have been fulfilled and that the future requirements for such public facilities can be fulfilled.
- B. Impact on existing residents of the city. Whether the annexation of lands to the city create any additional cost or burden on the then-existing residents of the city to provide such public facilities and additional community services in any newly-annexed area.
- C. Compliance with Comprehensive Master Plan. Whether the applicant has demonstrated that the proposed annexation of land is in compliance with the Comprehensive Master Plan.
- D. School district impacts. Whether the applicant has demonstrated that the applicant discussed with the school district the requirements for dedication of school sites, or payment of fees in lieu of the dedication, as may be agreed to between the applicant, the school district and the city.
- E. Compliance with pertinent intergovernmental agreements. Whether the applicant has demonstrated that the proposed annexation of land is in compliance with all pertinent intergovernmental agreements to which the city is a party.
- F. Best interest of citizens. Whether the proposed annexation is in the best interest of the citizens of the City of Loveland.
- G. Cost/benefit analysis. In its consideration of any proposed annexation, council may request that a cost/benefit analysis be prepared in compliance with the Comprehensive Master Plan to measure and assess the fiscal impact of the proposed annexation. The cost of such analysis or additional information shall be borne solely by the applicant. Council may make any appropriate findings as a result of said cost/benefit analysis.
- H. Street compliance with city standards. All existing and proposed streets in newly annexed property shall be constructed in compliance with all current city standards unless the city determines that the existing streets will provide proper access during all seasons of the

year to all lots fronting on each street; and that the curbs, gutters, sidewalks, bike lanes, culverts, drains and other structures necessary to the use of such streets, highways and public safety are satisfactory or not necessary. The location, type, character and dimensions of all structures and the grades for all existing or proposed street work shall be subject to approval by the city.

- I. No building permit or development plan shall be issued for property annexed into the city until a subdivision plat has been approved and recorded pursuant to Title 16. (Ord. 4717 § 5, 2002)
- J. Water rights. The annexation shall comply with the water rights requirements of Title 19. (Ord. 4717 § 5, 2002; Ord. 4299 § 1 (part), 1997)

17.04.050 Annexation review and approval procedure.

- A. Application processing. Applications for annexation shall be processed in accordance with the procedures set forth in Chapter 18.39. Upon determination by the current planning manager that the application is complete, the application shall be further processed as set forth below.
- B. Requirement to zone annexed property. All applications for annexation shall be accompanied by an application for zoning of the property to be annexed, as set forth in Title 18. All zoning applications shall propose a zoning that is consistent with the Comprehensive Master Plan, as amended, unless an application for Comprehensive Master Plan amendment accompanies the zoning application.
- C. Concurrent site development plan applications. The applicant may submit a concurrent application for a site development plan as set forth in Chapters 18.39 and 18.46 with the annexation application. In this case, any public improvement construction plans submitted with the annexation application shall be deemed to be part of the site development plan application. The plans and other supporting documents that are part of an approved site development plan application shall be deemed to be the final plans for the proposed development.
- D. Public notice requirements. Where council adopts a resolution pursuant to C.R.S. § 31-12-108(1), the city clerk or the clerk's designee shall give notice in accordance with the provisions of C.R.S. § 31-12-108(2).
- E. Planning commission decision. Subject to available space on the agenda, the planning commission shall hold a public hearing on the annexation application at its next regular meeting. The public hearing shall be noticed in accordance with Section 16.16.070. Staff's recommendations shall be presented as part of the public hearing. Using the policies and the annexation review standards set forth in this chapter, the planning commission may recommend approval, or denial of the application as submitted, or with the concurrence of the applicant, continue the application and refer the matter back to the applicant for further study. The planning commission shall make appropriate findings based on the applicable review standards. In recommending approval of any application, the planning commission may impose any condition for any reason, including but not limited to ensuring that the proposal satisfies the review standards set forth in this title, the Comprehensive Master Plan and the Code. Before recommending that any condition be imposed on the annexation, the planning commission shall obtain the consent of the applicant to the conditions, either in writing or as a part of the record of the proceeding. If

the applicant fails to consent to all of the conditions, such failure to consent shall be grounds for recommending denial of the annexation.

- F. City council decision. Subject to compliance with the noticing requirements in this section, and subject to available time on the agenda, at the public hearing required by Colorado Revised Statutes, council shall consider the identical annexation application that was presented to the planning commission at the next regular council meeting. Staff shall present the planning commission's and staff's recommendations as part of the public hearing. Using the policies and the annexation review standards set forth in this chapter, council may approve or deny the application as submitted, or in accordance with Colorado Revised Statutes, continue the application and refer the matter back to the applicant for further study. If the annexation application is approved by council, council shall make appropriate findings based on the applicable review standards. In approving any application, council may impose any condition for any reason, including but not limited to ensuring that the proposal satisfies the review standards set forth in this title, the Comprehensive Master Plan and the Code. Before imposing any condition on the annexation, council shall obtain the consent of the applicant to the conditions, either in writing or as part of the record of the proceeding. If the applicant fails to consent to all of the conditions, such failure to consent may be grounds for denial of the annexation. (Ord. 5412 § 1, 2009; Ord. 4540 § 3, 2000; Ord. 4299 § 1 (part), 1997)

17.04.060 Submittal requirements.

- A. The annexation application shall include the annexation map, all information that is required by state statutes, and all information required by the applicable submittal checklist. All information shall be in a form that allows the development review team to review the application on the basis of the findings for annexation and to resolve issues that may have been raised at the concept review meeting.
- B. The current planning manager is authorized to create, modify, or discontinue any submittal checklist for all development applications as deemed necessary for the implementation of this title.

17.04.065 Documents required before council public hearing.

Prior to scheduling the council public hearing, the applicant shall submit to the current planning manager fully-executed final documents as determined by the current planning manager.

17.04.070 Recording and filing requirements.

- A. After the final approval of the annexation map and ordinance, the applicant shall submit to the development center two signed, original mylars or one signed, original mylar and one clearly legible, reproducible copy of the map, containing original signatures. (Ord. 4717 § 5, 2002)B. The city clerk shall:
1. Cause the annexation map, two copies of the annexation ordinance, certified, the development agreement, if applicable, any other written agreements or documents which the director requires to be recorded, and all other necessary filings as required by C.R.S. § 31-12-113 to be recorded with the Larimer County Clerk and Recorder; and

2. Distribute sufficient copies of the map to other departments and individuals as required by law or designated by the director. (Ord. 4299 § 1 (part), 1997)

17.04.080 Corrections, errors, and omissions.

Corrections, errors, and omissions to an annexation map shall be processed in accordance with Section 16.16.060. (Ord. 4299 § 1 (part), 1997)

Title 18

ZONING

Chapters:

- 18.04 Purpose.**
- 18.05 Public Notice Requirements.**
- 18.07 ER District – Estate Residential District.**
- 18.08 R1e District – Established Low-density Residential District.**
- 18.12 R1 District – Developing Low-density Residential District.**
- 18.13 R2 District – Developing Two-family Residential District.**
- 18.16 R3e District – Established High-density Residential District.**
- 18.20 R3 District – Developing High-density Residential District.**
- 18.24 BE District – Established Business District.**
- 18.28 B District – Developing Business District.**
- 18.29 MAC District – Mixed-use Activity Center District.**
- 18.30 E District – Employment Center District.**
- 18.32 PP District – Public Park District.**
- 18.36 I District – Developing Industrial District.**
- 18.38 DR District – Developing Resource District.**
- 18.39 Development Application Process and Procedures**
- 18.40 Uses Permitted By Special Review.**
- 18.41 Planned unit Development Zone District Requirements and Procedures.**
- 18.42 Off-street Parking and Loading Requirements.**
- 18.43 Mobile Home Parks, Communities and Campgrounds.**
- 18.45 Floodplain Regulations.**
- 18.46 Site Development Plan Requirements and Procedures.**
- 18.47 Site Development Performance Standards and Guidelines.**
- 18.48 Accessory Buildings and Uses.**
- 18.50 Signs.**
- 18.52 Supplementary Regulations.**
- 18.53 Commercial and Industrial Architectural Standards.**
- 18.54 Building Height Regulations.**
- 18.55 Personal Wireless Service Facilities.**
- 18.56 Nonconforming Uses – Nonconforming Buildings.**
- 18.60 Zoning Board of Adjustment.**
- 18.64 Amendments.**
- 18.68 Enforcement – Penalties.**
- 18.72 Vested Property Rights.**
- 18.76 Sexually Oriented Business Zoning.**
- 18.77 Oil and Gas Regulations.**
- 18.78 Overlay Zoning Districts for Development Setbacks From Existing Oil and Gas Facilities.**
- 18.80 Appeals.**

Chapter 18.04

PURPOSE

Sections:

18.04.010	Purpose.
18.04.020	Applicability.
18.04.030	Interpretation.
18.04.040	Definitions.
18.04.050	Zoning districts – Established.
18.04.060	Zoning districts – Boundaries – Titles.
18.04.070	Building, structure, or use exempt.
18.04.080	Schedule adoption.
18.04.090	Concurrent submittal and review of a site development plan application.

*For statutory provisions regarding zoning of cities and towns generally, see C.R.S. 31-23-201 *et. seq.*
For provisions authorizing local authorities to adopt zoning regulations, see C.R.S. 31-23-301 *et. seq.*

18.04.010 Purpose.

The zoning regulations and districts, as herein set forth, which have been made in accordance with a comprehensive zoning study, are designed to accomplish the following: lessen congestion in the streets; secure safety from fire, panic and other dangers; promote health and general welfare; provide adequate light and air; prevent overcrowding of land; avoid undue concentration of population; and facilitate the adequate provision of transportation, water, sewage, schools, parks and other public improvements. These regulations have been made with reasonable consideration as to the character of each district and its suitability for particular uses, with a view to conserving the value of buildings, land and encouraging the most appropriate use of land throughout the city in accordance with the adopted master plan for the city or other approved planning or engineering studies.

18.04.020 Applicability.

- A. No real property shall be zoned or rezoned, nor shall a variance to the application of this title be granted, which violates the provisions of C.R.S.34-1-301 *et seq.*
- B. Except as hereinafter provided, no building, structure or land shall be used and no building, structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the statutes of the state and the regulations herein specified for the district in which it is located; nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.
- C. Approval of a site development plan, pursuant to Chapters 18.39 and 18.46, shall be required for all category 2 development pursuant to the provisions of this title. No site development plan shall be required for category 1 development.

18.04.030 Interpretation.

- A. The provisions of this title shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, morals, convenience, prosperity and welfare. This title shall therefore be regarded as remedial and shall be liberally construed to further its underlying purposes.
- B. Whenever both a provision of this title, and any other provision of this title or any provision in any other law, ordinance, resolution, rule or regulation of any kind, contain any restrictions

covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern. All uses and all areas, width and yards permitted under the terms of this title shall be in conformity with all other provisions of law.

- C. This title is not intended to abrogate or annul any permits issued before the effective date of the ordinance codified herein, or any easement, covenant or any other private agreement.
- D. When interpreting the provisions of this title, the following rules shall apply:
 - 1. The particular controls the general.
 - 2. In case of any difference of meaning or implication between the text of this title and the captions for each section, the text shall control.
 - 3. The word “shall” is always mandatory and not directory. The word “may” is permissive.
 - 4. Words used in the present tense include the future, unless the context clearly indicates the contrary.
 - 5. Words used in the singular number include the plural and words used in the plural number include the singular unless the context clearly indicates the contrary.
 - 6. A “building” or “structure” includes any part thereof. A “building or other structure” includes all other structures of every kind, regardless of similarity to buildings.
 - 7. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for” and “occupied for.”

18.04.040 Definitions.

- A. As used in this title, all words and phrases shall be interpreted and defined in accordance with Sections 16.08.005, 16.08.010 and Subsection B. of this section, except that the current planner manager, as administrator of this title, shall make interpretations relating to Title 18. In this event of a conflict, Subsection B. of this section shall control.

- B. As used in this title:

“Adult arcade” means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video, or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

“Adult bookstore, adult novelty store, or adult video store” means a business having as a substantial and significant portion of its stock and trade, revenues, space, or advertising expenditures of one or more of the following: (i) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, laser disks, slides, or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or (ii) instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”

“Adult cabaret” means a nightclub, bar, restaurant, or similar commercial establishment which regularly features: (i) persons who appear in a state of nudity or semi-nudity; or (ii) live performances which are characterized by the exposure of “specified sexual areas” or by “specified anatomical activities”; or (iii) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

“Adult motel” means a hotel, motel, or similar commercial establishment which: (i) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the

availability of such adult type of photographic reproductions; or (ii) offers a sleeping room for rent for a period of time that is less than ten hours; or (iii) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

“Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

“Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of “specified anatomical areas” or “specified sexual activities.”

“Attended recycling collection facility” means a lot, site, premises or portion thereof, which is used for the collection and temporary storage, in closed, weatherproof containers, including mobile recycling collection units, of recyclable materials accepted by donation, redemption or purchase from the general public only during times when the site is attended by an employee or volunteer. Such a facility does not use power-driven processing equipment, but may include reverse vending machines.

“Bar or Tavern” means an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and light snacks may also be available for consumption on the premises.

“Bed and breakfast establishment” means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment.

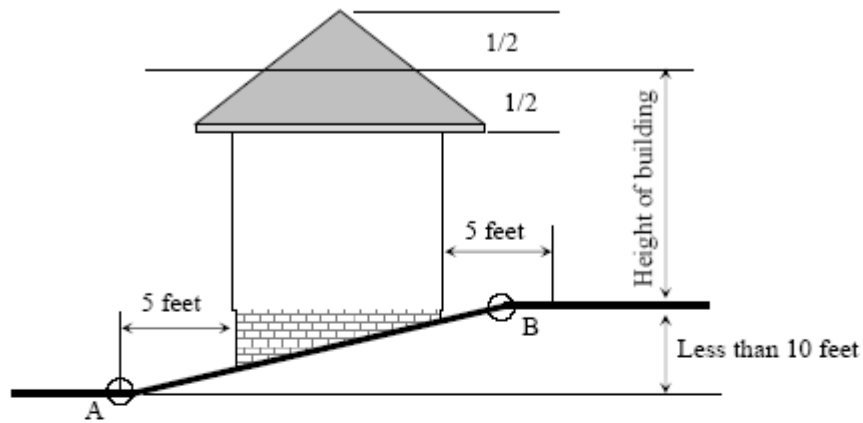
“Boarding and rooming house” means a building or portion thereof which is used to accommodate, for compensation, three or more boarders or roomers, not including members of the occupant’s immediate family who might be occupying such building. The word “compensate” includes compensation in money, services or other things of value.

“Building” means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is permanently affixed to the land and has one or more floors and a roof.

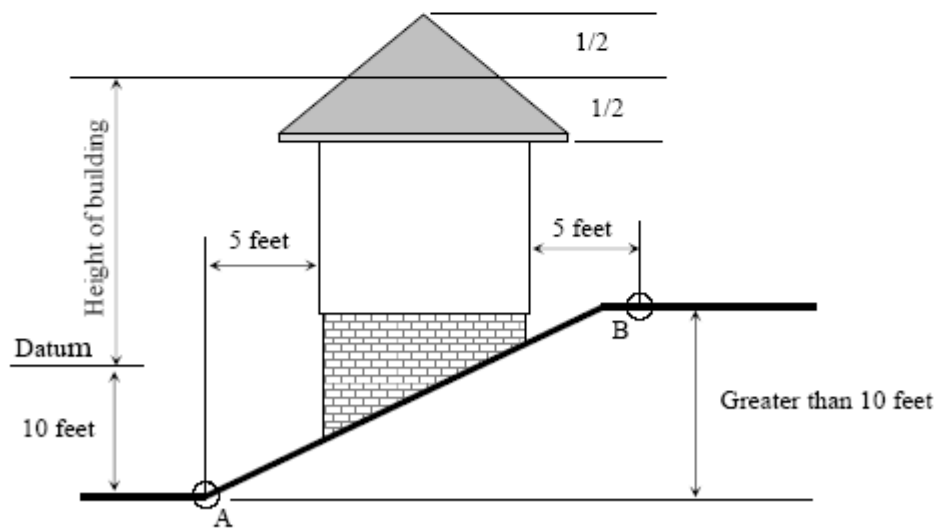
“Building envelope” means the two dimensional space within which a building or structure is permitted to be built on a lot.

“Building height” means the vertical distance from grade to the highest point of the coping of a flat roof, or to the average height of the highest gable of a hipped roof or to the highest point of a curved roof. This measurement shall be exclusive of church spires, chimneys, ventilators, pipes and similar apparatus. For purposes of this definition “grade” as a point of measure, shall mean either of the following, whichever yields a greater height of building or structure: (i) the elevation of the highest ground surface within a five foot horizontal distance from the exterior wall of the building, when there is less than a ten foot difference between the highest and lowest ground surface within a five foot horizontal distance from said wall; or (ii) an elevation ten feet higher than the lowest ground surface within a five foot horizontal distance from the exterior wall of the building, when there is greater than a ten foot difference between the highest and lowest ground surface from said wall. For purposes of this section, the term “ground surface” includes sidewalks. See diagram 1.

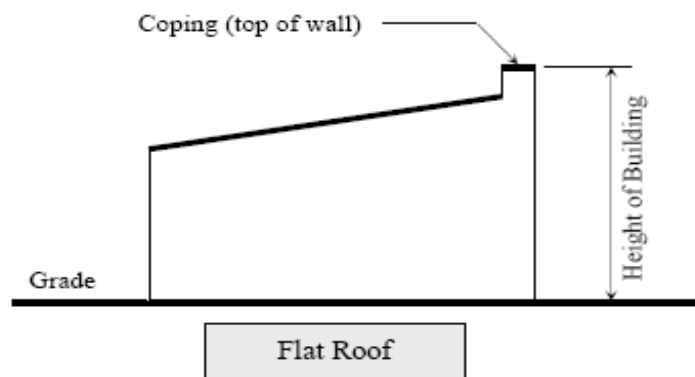
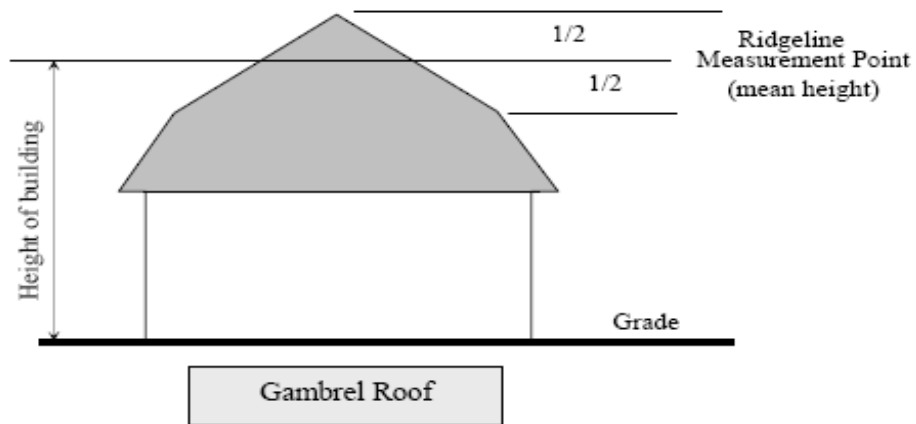
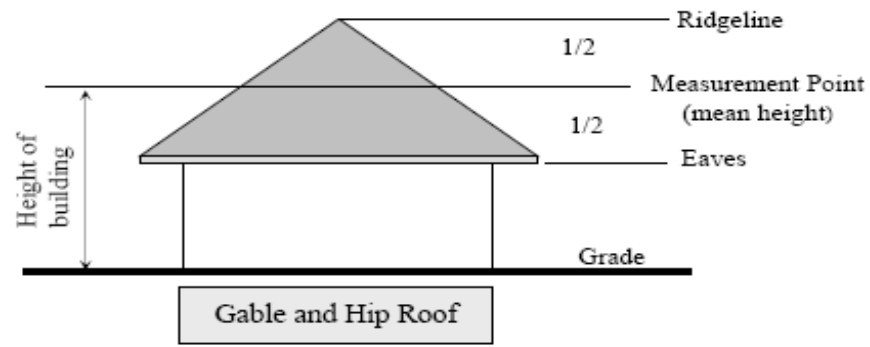
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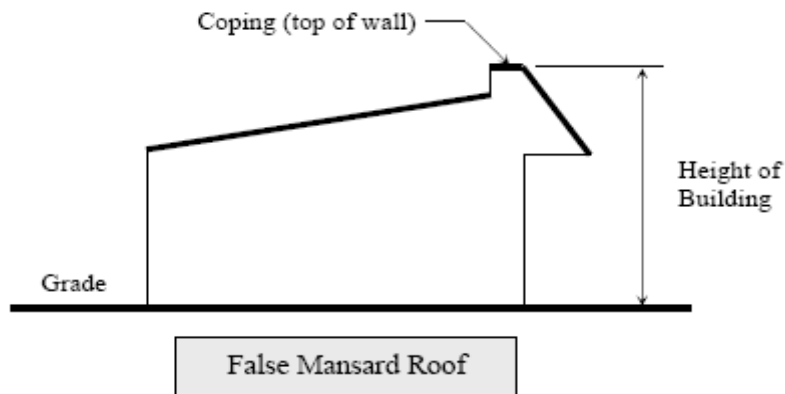


Measurement of grade when difference between lowest and highest ground surface within 5 feet of building is less than 10 feet.



Measurement of grade when difference between lowest and highest ground surface within 5 feet of building is more than 10 feet.





“Carwash” means an establishment used for washing and cleaning of passenger vehicles, recreational vehicles, and other light duty equipment, including facilities containing mechanical devices for washing and those that are self-service/coin operated.

“Category 1 development” means the development and use of property for single-family detached dwellings, single-family attached dwellings within buildings having no more than two dwelling units, and two-family dwellings.

“Category 2 development” means development and use of property for non-residential uses, multi-family dwellings and single family attached dwellings with three or more units, and mixed uses.

“Change of use” means and occurs whenever the use proposed is outside the three-digit group number classification of the previous use as set forth in the Standard Industrial Classification Manual published by the Department of Commerce as amended, and as confirmed by the current planning manager.

“Check-in review” means review by the development review team of an application submittal or resubmittal to determine if the contents meet the requirements set forth in the applicable submittal checklist, and if subsequent resubmittal adequately addresses the review comments provided by the development review team.

“Clubs and lodges” means facilities, structures or locations where organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly. “Combined use development” means a property which is used for a combination of residential, business, or commercial purposes, designed to provide variety and diversity through mixtures of compatible uses so that maximum long range benefits can be gained and unique features of the site are preserved and enhanced, while still being in harmony with the surrounding neighborhood.

“Commercial child day care center” means a facility (publicly or privately operated), other than a private home and which is located in a non-residential zoning district, having as its principal function the receiving of one or more preschool or school age children under the age of eighteen for care, maintenance, and supervision. Commercial child day care centers are also commonly referred to as day care centers, day nurseries, child care facilities, nursery schools, parent cooperative preschools, play groups, and drop-in centers.

“Commercial endeavor,” for purposes of this definition, shall mean a money-raising endeavor that is not customarily considered in support of the organization’s religious services and activities, but is more in the nature of a profit-making business generally open to the public and not restricted to the organization’s membership.

“Commercial mineral deposit” means commercial mineral deposit as defined by C.R.S. 34-1-302.

“Community facility” means a publicly owned facility, including an office building, that is primarily intended to serve the educational, cultural, administrative, or entertainment needs of the community as a whole.

“Composting facility” means any site where decomposition processes are used on solid waste (including leaves, grass, manures and non-meat food production wastes received from residential, commercial, industrial non-hazardous and community sources, but not including bio-solids) to produce compost; provided that such facility has on-site at any given time more than one thousand cubic yards or three hundred dry tons of active composting material or feedstock.

“Congregate care facility” means a residential facility containing separate dwelling units, which facility provides housekeeping assistance, personal care assistance and meal preparation assistance to its residents.

“Construction coordination meeting” means an initial meeting, as described in the Larimer County Urban Area Street Standards, between the city engineer and appropriate representatives of the developer which is held in association with the issuance of a site work permit.

“Contractor’s storage yard” means an unenclosed portion of the lot or parcel upon which a construction contractor maintains an area used to store and maintain construction equipment and other materials customarily used in the trade carried on by the construction contractor. This definition excludes temporary contractors storage associated with the site of an on-going construction project.

“Convention and conference center” means a facility used for business or professional conferences and seminars, often with accommodations for sleeping, eating and recreation.

“Crematorium” means a facility for the burning of corpses, human or animal, to ashes either as a principal use or as an accessory use. Crematoriums do not include establishments where incinerators are used to dispose of toxic or hazardous materials, infectious materials or narcotics.

“Cul-de-sac lot” means a parcel of land where any portion of the front line is contiguous with the turnaround at the end of the dead-end street.

“Dance club or dance hall” means an establishment located within a building, serving food and/or beverages, and where the opportunity for recreational or social dancing is offered to patrons as an accompanying activity.

“Day care center” means a state-licensed facility that is not a private residence and that is operated for part of the day for the care of five or more individuals not related to the owner, operator, or manager thereof. Such facility may be operated with or without compensation for such care, and with or without stated educational purposes. Patrons of such centers may be children under the age of eighteen years, developmentally disabled or physically disabled persons, or senior citizens.

“Decorative materials” means materials which augment and enhance the botanical landscaping including rocks, gravel, driftwood, bark, ponds, fountains, or other landscape design features approved by the city.

“Dependent unit” means a mobile home, travel trailer or camper which is dependent on service buildings containing toilets, bath and laundry facilities.

“Destination Downtown: HIP Streets Master Plan” means the most current version of said document as adopted by the city.

“Development review team meeting” means a meeting between the development review team of the city and the applicant for a development application along with the applicant's consultant team.

“Disabled person” means any person who: (i) has a physical or mental disability which substantially limits one or more of such person’s major life activities; or (ii) has a record of such disability; or (iii) is regarded as having such a disability.

“Domestic animal day care facility” means a facility providing such services as domestic animal day care for all or part of a day, obedience classes, training, grooming and/or behavioral counseling, provided that overnight boarding is not permitted.

“Elderly” means a person who is sixty-two years of age or older.

“Employees” means the gross number of persons to be employed in the building in question during any season of the year at any time of day or night.

“Entertainment facilities and theaters, indoors” means a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances or containing amusement facilities such as billiard or pool parlors and pinball/video arcades.

“Escort agency” means a person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

“Essential public utility uses, facilities, services, and structures” means the construction, alteration, or maintenance by public utilities having the power of eminent domain of underground or overhead gas, electrical, steam, or water transmission systems reasonably necessary for providing adequate service by such public utilities for the public health or general welfare, or similar uses.

“Family” means any individual or two or more persons related by blood, adoption or marriage, or an unrelated group of not more than three persons living together in a dwelling unit, and includes family foster care of up to four children which is licensed according to the statutes of the state.

“Fast food or drive-in restaurant” means any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready to consume state for consumption either inside or outside the restaurant building or for carry-out for the purpose of consumption off the premises, and whose design and principal method of operation includes at least one of the following characteristics: (i) foods, frozen desserts, or beverages are usually served in edible containers or in paper, plastic or other disposable containers; (ii) the consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises or other facilities upon the premises outside the restaurant building is allowed, encouraged or permitted; or (iii) foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle by a service attendant, or by other means such as a drive up service window which eliminates the need for the customer to exit the motor vehicle.

“Financial services” means and includes the following types of businesses: banks and savings and loans, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agents, lessors, lessees, buyers, sellers, agents, and developers of real estate.

“Firing range, indoor” means a completely enclosed building or group of buildings which contains facilities for the use of firearms and similar weaponry for training, testing, or recreational purposes in which noise, vibration, smoke, odor, and light flashes are contained within the building(s). Such facilities include the use of ammunition using kinetic propellants where a projectile is fired from a firearm, as defined by Title 18 Chapter 44 of the United States Code, or facsimile thereof and use of force scenarios where such firearms are used. The presence of activities that include archery, paintball systems, video-based gaming, laser-based technology of low output and other technologies that do not cause emission of a destructive force, including compressed gas, air propulsion based firearms or spring-based propulsion systems, do not constitute an indoor firing range, although such activities may occur within an indoor firing range.

“Floor area” means the gross area of the building measured along the outside walls of the building including each floor level and interior balconies, but excluding garages and enclosed automobile parking areas, exterior unenclosed balconies and basements, and one-half the area for storage and display area in commercial uses for hard goods.

“Floor area ratio” means the gross floor area of all buildings or structures on a lot divided by the lot area.

“Food catering establishment” means an establishment in which the principal use is the

preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.

“Funeral home” means a building used for the preparation of the deceased for burial or cremation, for the display of the deceased and/or for ceremonies or services related thereto, including the storage of caskets, funeral urns, funeral vehicles and other funeral supplies. A crematorium with no more than one incinerator shall be considered an accessory use to a funeral home.

“Garden supply center” means a facility for the sale of garden tools, equipment, and supplies operated in conjunction with a nursery and/or tree farm where the plant materials sold are limited to those grown on the premises.

“Gas station” means any building, land area, premises or portion thereof, where petroleum-based fuels or other petroleum products are sold and light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning may be conducted and convenience goods or services may be offered. Gasoline station shall not include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting and body fender work are conducted.

“Greenhouse” means a facility where plants are raised inside a permanent structure constructed of rigid materials and the plants are for sale or transplanting.

“Group care facility” means a building, or group of buildings used as an integrated unit, which is used or occupied as: (i) a state licensed group home for no less than four and no more than eight developmentally disabled persons, together with appropriate staff; or (ii) a group home for the exclusive use of no less than four and no more than eight persons sixty years of age or older; or (iii) any other facility for the provision of treatment, counseling or other rehabilitative or care services carried out in a residential or family environment for no less than four and no more than eight persons residing in the facility, and which facility or operation is licensed, certified, approved, owned or operated by a governmental agency for such purposes or which provides services only for persons referred by governmental agencies.

“Growth management area” means that area as defined in the Comprehensive Master Plan.

“Hard goods” means durable goods such as household appliances, furniture, automobiles, and farm and construction equipment which all require extensive floor area for display.

“Health care service facility” means one or more buildings on a common site in which is provided various forms or types of personal non-medical health related services by persons of specialized training such as exercise, diet counseling and training, rehabilitation therapy, physical therapy, massage therapy, chiropractic, hydro-therapy, therapeutic saunas or whirlpools, and other similar activities.

“Heavy industrial uses” means those uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions. Heavy industry shall also mean those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, truck terminals, public works yards, and container storage.

“Historic Preservation Plan” means the most current version of said document as adopted by the city.

“Hospital” means an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, disability, and other physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

“Independent unit” means a mobile home, travel trailer or camper which is not dependent on service buildings containing toilets, bath and laundry facilities.

“Indoor recreation facilities” means facilities established primarily to provide exercise and recreational services, such as dance studios, martial art schools, arts or crafts studios; or exercise or

health clubs, bowling alleys or gymnasium-type facilities for such activities as tennis, basketball or competitive swimming.

“Intermediate health care facility” means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and twenty-four-hour per day nursing services are required.

“Jails, detention centers, and penal centers” means facilities for the judicially required detention or incarceration of people, where inmates and detainees are under 24-hour supervision by professionals, except when on approved leave. If the use otherwise complies with this definition, a “penal/correctional institution” may include, by way of illustration, a prison, jail, or probation center.

“Junkyard or salvage yard” means an industrial use (not permitted in residential, business or commercial districts) contained within a building, structure or parcel of land, or portion thereof, used for collecting, storing or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof. Junkyard or salvage yard shall not include a recycling facility.

“Kennel” means a facility where four or more animals of the canine or feline family over four months old are kept, maintained, bred, trained, sold, sheltered or boarded overnight for a fee or compensation.

“Landfill area” means an industrial use where refuse is disposed and promptly covered with sufficient earth to prevent health hazards.

“Landscaping” means the improvement of the appearance of a lot, tract, or parcel of land by the preservation, rearrangement, installation, planting, or modification of different trees, shrubs, grass or decorative materials.

“Light industrial uses” means uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building. Further, light industrial shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. Light industrial shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal or related industries.

“Lodging establishment” means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals.

“Logo, corporate or business” means a symbol, image, word, word abbreviation, or initials which are designed for easy recognition, and which represents or identifies in graphic form a corporation or business.

“Long term care facility” means any of the following: (i) Convalescent center. A health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital. (ii) Nursing care facility. A health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients who require regular medical care and twenty-four-hour per day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized and maintained to provide twenty-four-hour per day nursing services under the direction of a registered professional nurse employed full time. (iii) Intermediate health care facility. A health-related institution planned, organized, operated and maintained to provide facilities

and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and twenty-four-hour per day nursing services are required.

“Lot” means a parcel of land occupied or designed to be occupied by one or more buildings, structures or uses, together with such open areas as are required by this title.

“Lot area” means the total horizontal area within the lines of a lot.

“Lot line, front” means the property line dividing a lot from a street except lots bordered by more than one street. On lots bordered by more than one street, the building official shall determine the front lot line requirements, subject to the following limitations: (i) at least one front lot line shall be established creating one front yard as required generally in the zoning district; and (ii) the other yard area abutting on a street shall have a minimum yard area as required by the zoning district if greater than fifteen feet.

“Lot line, rear” means the line opposite the front lot line or, in the case of irregular or multisided lots, that line so designated on the approved building site plan filed with the city.

“Lot line, side” means any lot lines other than front lot lines or rear lot lines.

“Lot width” means the distance measured in feet between the side lot lines at the rear of the minimum required front yard.

“Lumber yard” means an establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items, such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper is permitted at retail and deemed to be customary and incidental to the sale of lumber and other building materials. Such uses typically include outdoor storage of building material.

“Major recycling processing facility” means all recyclable materials processing facilities which do not meet the definition of minor recycling processing facility.

“Massage parlor” means an establishment providing massage, but it does not include training rooms of public and private schools accredited by the State Board of Education or approved by the State Board of Community Colleges and Occupational Education, training rooms of recognized professional or amateur athletic teams, licensed health care facilities, or the establishment of duly licensed medical doctors, osteopathic doctors, chiropractic doctors, or dentists when used by such persons or their employees.

“Massage” means a method of treating the body for remedial or hygienic purposes, including, without limitation, rubbing, stroking, kneading, or tapping with the hand or an instrument or both.

“Medical or dental clinic” means the office of practitioners of the healing arts where the practitioner employs more than one person, and the primary use is the delivery of health care services and where no overnight accommodations are provided. Such use may also include testing laboratories associated with medical testing or analysis.

“Minor recycling processing facility” means a building used for recyclable materials processing where the total floor area does not exceed five thousand square feet, and where no exterior storage or processing of recyclable materials exists. Minor recycling processing facility shall not include a transfer station or waste to energy incineration facility.

“Mixed-use” means any combination of one or more residential uses and one or more non-residential uses on a single lot or tract or within a single or unified development.

“Mobile home” means any vehicle used or constructed to be used both as a duly licensed conveyance upon streets and highways and as a place for residential occupancy, whether or not placed on jacks or some other form of foundation or connected to utility systems, including “mobiletts” and similar portable units, but not including travel trailers, campers, and tents.

“Mobile home community” means an area for the placement of one or more mobile homes which are intended to be used primarily on a permanent basis. Spaces may be sold or leased.

“Mobile home park” means an area for the placement of one or more mobile homes which are intended to be used primarily on a transient or semi-permanent basis. Spaces shall be leased.

“Mobile recycling collection unit” means an automobile, truck, trailer, or van, licensed by the Department of Motor Vehicles, which is used for the collection, temporary storage, and transportation of recyclable materials.

“Neighborhood shopping center” means a group of contiguous or adjoining small retail stores or service buildings, not less than two, serving the neighborhood in which they are located, such as the following: food products, barbershop, beauty shop, laundry and dry cleaning, sundries, and such others of a similar nature including establishments selling fermented malt beverages or malt, vinous or spirituous liquors. No such store or service building shall contain more than one thousand two hundred fifty square feet. No neighborhood shopping center shall exceed a total floor area of seven thousand two hundred square feet.

“Nightclub” means a bar containing more than four hundred square feet of dance floor area.

“Nude model studio” means any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the state of Colorado or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure: (i) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and (ii) where in order to participate in a class a student must enroll at least three days in advance of the class; and (iii) where no more than one nude or semi-nude model is on the premises at any one time.

“Nursing home” means a facility licensed as such by the state.

“Off track betting facility” means a facility that is in the business of accepting wagers on horseraces or dog races at locations other than the place where the race is run, which business is licensed by the state.

“Open air farmers market” means an occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

“Open Lands Plan” means the most current version of said document as adopted by the city.

“Open space” means the gross area of a lot or tract of land minus all streets, driveways, parking lots, parking islands, drive aisles, or other surfaces designed or intended for vehicular travel and building areas, which is to be or has been landscaped or developed for use by the public or by the residents of the lot or tract of land for private, common, or public enjoyment or recreational use. No greater than fifteen percent of the total open space shall be devoted to impervious surfacing accommodating patios, plazas or similar amenities.

“Open space, usable” means open space that is available and suitable in terms of size, dimension, and topography for active or passive outdoor use. For residential uses, usable open space may include, without limitation, gardens, patios, decks, and yards designed for use and enjoyment by the resident. For nonresidential uses, usable open space may include, without limitation, pedestrian plazas, outdoor gathering areas, trails, seating areas, fountains, and passive or active recreation areas.

“Outdoor recreation facility” means an area devoted to active sports or recreation such as go-cart tracks, miniature golf, archery ranges, sport stadiums, or the like, and may or may not feature stadium-type seating.

“Owner” or “landowner” means the person who has legal title to real property as indicated by public records, or the holder of an option or contract to purchase real property.

“Packing facility” means a facility where locally-raised farm products are to be prepared for shipping.

“Parcel” means that sort of a lot which is created by the division of the lot after a two-family or three-family dwelling has been constructed thereon.

“Park or recreation area” means a public park which may be neighborhood and/or community serving and may include playfields, restrooms, lighted outdoor recreation facilities such as softball, baseball, soccer, and football fields, and tennis and basketball courts, and other facilities such as swimming pools, recreation centers, on-site parking, group picnic areas, and sculpture parks, but excluding outdoor recreation areas.

“Parking garage” means an off-street parking area within a structure.

“Parking lot” means an off-street parking area or vehicular use area.

“Parks and Recreation Master Plan” means the most current version of said document as adopted by the city.

“Personal and business service shops” means shops primarily engaged in providing services generally involving the care of the person or such person’s apparel or rendering services to business establishments such as laundry and dry-cleaning retail outlets, portrait/photographic studios, beauty and barber shops, diet counseling, fitness studios of no more than one thousand two hundred square feet, shoe repair, and mailing and copy shops, but excluding publishing and engraving.

“Place of worship or assembly” means a building or group of buildings that are intended and used for conducting organized religious services and other activities supporting such religious services including, without limitation, religious classes, childcare, fundraising events and activities, and committee and office work. Places of worship or assembly shall not include buildings used for a commercial endeavor including, without limitation, coffee shop, day-care center, motion picture theater, and recreational facility unless such commercial use is otherwise permitted pursuant to the requirements of Title 18.

“Planned unit development” means a project which meets the requirements of Chapter 18.41.

“Plant nursery” means any land or structure uses primarily to display and sell trees, shrubs, flowers, or other plants raised on the site or delivered to the site for sale to the general public.

“Principal building” means a structure in which is conducted the main or principal use of the lot, tract, or parcel of land on which said building is located.

“Principal use” means the primary or predominant use of any lot, tract, or parcel of land, as permitted under this title.

“Print shop” means an establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving, but excluding businesses proving copy services and that fall under definition of “personal and business service shops.”

“Printing and newspaper office” means the reporting and administrative office of a newspaper publication which may include associated distribution and printing facilities on-site.

“Professional office” means an office for professions such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, and others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

“Public school or private school” means any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education, and including business schools, trade schools, and vocational and technical training schools.

“Public service facility” means a publicly-owned repair, storage or production facility or public works yard.

“Recreational open space” means that portion of the total open space which is improved or landscaped and intended to be used for recreational activities including but not limited to playgrounds, tot lots, ball fields, basketball courts, tennis courts, swimming pools, picnic areas, and sitting areas.

“Recreational vehicle park or campground” means a parcel in single ownership on which two or more recreational vehicle sites and/or camping sites are located, established, or maintained for occupancy by recreational vehicles or camp units as temporary living for recreation, education, or vacation purposes.

“Recyclable material” means a reusable material, including but not limited to metals, glass, plastic and paper, which is intended for reuse, remanufacture or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse, nor does it include hazardous materials as defined by C.R.S. 25-15-101(6). Recyclable material may include used motor oil which is collected and transported in accordance with applicable state health and safety regulations, as well as any other applicable sections of the Code.

“Recyclable materials processing” means the preparation of recycled material for efficient shipment, or to an end-user's specifications by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, or cleaning.

“Research laboratory” means a facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials where the scientific analysis is generally performed for an outside customer to support the work of that customer, including, without limitation, the following: (i) environmental laboratories for the analysis of air, water, and soil; (ii) medical and veterinary laboratories for the analysis of blood, tissue, or other human or animal products; and (iii) forensic laboratories for analysis of evidence in support of law enforcement agencies, but not facilities for the manufacture or sale of products except as incidental to the main purpose of the laboratory.

“Residential district” means any district zoned R1e, R1, R2, R3e, and R3, and any PUD district permitting the construction of dwelling units.

“Residential occupancy” means that the occupant dwells on the property and uses the property as a permanent place of residence. Indications of residential occupancy include the following factors: (i) the occupant resides on the property which includes overnight stays on the property for an extended portion of each year; (ii) the occupant receives mail at the property; (iii) the property is listed as the occupant's residence on official documents; (iv) utility bills for the residence indicate the occupant's name; (v) the occupant has personal possessions located on the property, particularly domestic possessions that include furniture, clothing, and other items of value; and (vi) there is no rental contract or arrangement relating to the dwelling unit that would create a violation of the city's family definition.

“Resource extraction, processes, and sales” means the removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances, or organic substances, other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.

“Restaurant, drive-in or fast food” means a restaurant so developed that patrons can be provided with food or beverage service while remaining in their vehicle, with service provided at on-site parking spaces or through a drive-up service window or similar facility. Such restaurants may or may not also have indoor or outdoor dining areas for patrons.

“Restaurant, standard” means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, where fermented malt beverages, and/or malt, special malt, or vinous and spirituous liquors may be produced on the premises as an accessory use, and where the design or principal method of operation includes one or both of the following characteristics: (i) customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or (ii) customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.

“Retail laundry” means a business establishment that performs laundry and dry-cleaning services primarily for persons who bring their laundry and dry-cleaning to the establishment and pick it up when finished, and includes pick-up points for laundry and dry-cleaning which is processed elsewhere, and may include only incidental pick-up and delivery service. “Retail laundry” includes a laundromat and

self-service laundry, but excludes businesses that process laundry and cleaning for other outlets, business, or institutional customers.

“Retail store” means an establishment devoted to the sale or rental of goods or merchandise to the general public for personal or household consumption or to services incidental to the sale or rental of such goods or merchandise (including pet shops).

“Reverse mode design” means the location of one or more buildings on a parcel such that the principal door access intended for public use of each building and the gasoline service islands are not located on the side of the building adjacent to the abutting street, and the entire area between the building and the abutting street is devoted to landscaped open space. On a corner lot, the principal door access intended for public use of the building and the gasoline service islands shall not be located on the side of the building adjacent to the abutting street with the highest average daily traffic volume, and the entire area between the building and abutting street is devoted to landscaped open space. The architectural finish of any wall which is visible from a street, parking area or other public way shall be substantially the same as the side of the building containing the principal public entrance.

“Reverse vending machine” means an automated mechanical device which accepts one or more types of empty beverage containers, including but not limited to aluminum cans and glass and plastic bottles, and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and process these containers mechanically, provided that the entire process is enclosed within the machine.

“Safety training facility” means an outdoor or partially-enclosed facility operated for the purpose of providing training or recreation relating to law enforcement, fire or emergency management, simulated use of force, electronic based simulation technology for the operation, testing, or training of motor vehicle operations, motor vehicle testing or training under high speeds or hazardous conditions, or similar activities that result in the creation of off-site noise, vibration, smoke, light flashes, or hazards. Such facilities may include indoor firing ranges.

“Self-service storage facility” means a site containing building(s) with separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time, excluding outdoor recreational vehicle, boat, and truck storage.

“Semipublic use” means a religious, philanthropic, educational or eleemosynary institution on a nonprofit basis in which goods, merchandise, and services are not provided for sale on the premises.

“Setback” means the closest distance of a building from the property line.

“Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of “specified sexual activities” or the exposure of “specified anatomical areas,” when one or more of the persons exposes any specified anatomical area.

“Sexually oriented business” means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or other similar business and includes: (i) the opening or commencement of any sexually oriented business as a new business; (ii) the conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business; (iii) the addition of any sexually oriented business to any other existing sexually oriented business; (iv) The relocation of any sexually oriented business; or (iv) the continuation of a sexually oriented business in the existence on the effective date of the ordinance adopting this chapter.*The term “sexually oriented business” shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

“Shelter for victims of domestic violence” means a facility providing social services in a protective living environment operating twenty-four hours per day and seven days per week, that receives, houses, counsels and otherwise serves victims of domestic violence, as that term is defined in C.R.S. 18-6-800.3, and their dependents. Such facility may include day care, professional, administrative, and security staff that serve residents only.

“Sign” shall have the definition as set forth in Section 18.50.020.

“Site development improvements” means all on-site requirements contained in Titles 16 and 18, including the various codes adopted therein by reference, and all on-site subdivision and zoning requirements imposed by council.

“Small animal hospital and clinic” means a facility rendering medical treatment to small animals and household pets that may provide overnight accommodations for medical treatment only and does not provide outdoor runs. Small animal hospitals and clinics do not include crematoriums as an accessory use as defined in this Chapter.

“Special trade contractor’s shop” means an establishment that provides a trade service including, but not limited to, plumbing, carpentry, glass/glazing, welding, sheet metal, heating and cooling, electrical, and roofing services.

“Specific food item or product” means any type, kind or category of food, food product, or food preparation which is identified by brand name, corporate name or logo, or marketing label which distinguishes it from other food or food products of the same general type or category.

“Specified anatomical areas” means: (i) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; (ii) less than completely and opaquely covered human genitals, pubic region, or buttocks; or (iii) a female breast below a point immediately above the top of the areola.

“Specified sexual activities” means: (i) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (ii) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; (iii) masturbation, actual or simulated; (iv) human genitals in a state of sexual stimulation, arousal, or tumescence; or (v) excretory functions as part of or in connection with any of the activities set forth herein.

“Street” means a public way for sidewalk, roadway, and utility installations, being the entire width from property line to property line, and which affords a direct means of access to abutting property.

“Structure,” strictly for purposes of determining the applicable height limitations, means anything constructed or erected on the ground, the use of which requires a more or less permanent location on the ground, but not including earthwork, ditches, canals, dams, water towers, radio transmitters, reservoirs, pipelines, telephone, telegraph, cable, or electrical power lines or poles and appurtenances thereto, street lighting, landscaping materials, and oil and gas drilling and production facilities.

“Subsidized single-parent household” means a family consisting of only one adult parent with one or more children under sixteen years of age which receives a governmental subsidy or governmental assistance for housing.

“Superficial floor area” means clear floor space, exclusive of fixed or built-in cabinets or appliances.

“Tourist home” means a dwelling in which rooms are rented on a daily basis or weekly basis for the purpose of accommodating travelers or temporary guests.

“Travel trailer” means a portable vehicle built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes.

“Truck stop” means an establishment engaged primarily in the fueling, servicing, repair, or parking of tractor trucks and trailers or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

“Truck terminal” means an area or building where cargo or containers are stored and where trucks load and unload cargo or containers on a regular basis. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks or buildings or areas for the repair of trucks associated with the terminal.

“Type 1 standard” means a development standard which is mandatory and requires compliance unless a variance from the required standard is granted in accordance with Chapter 18.60.

“Type 2 standard” means a development standard which is mandatory provided, however, alternative compliance to type 2 standards may be allowed based upon specific findings as provided in this title, and as approved by the current planning division.

“Unattended recycling collection facility” means a lot, site, premises, or portion thereof which is used for the collection and temporary storage, in closed, weatherproof containers, of recyclable materials which are accepted by donation, redemption, or purchase from the general public, without the supervision of an employee or volunteer at the site during hours of operation. Such a facility does not use power-driven processing equipment, but may include reverse vending machines.

“Vehicle major repair, servicing, and maintenance” means the use of any building, land area, premises or portion thereof, where maintenance activities other than described in the definition of vehicle minor repair, servicing, and maintenance are conducted.

“Vehicle minor repair, servicing, and maintenance” means the use of any building, land area, premises or portion thereof, where light maintenance activities such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing, or the like are conducted.

“Vehicle rentals of cars, light trucks, and light equipment” means the use of any building, land area, or other premises for the rental of cars, light trucks, and/or light equipment.

“Vehicle rentals of heavy equipment, large trucks, and trailers” means the use of any building, land area, or other premises for the rental of heavy equipment, large trucks, or trailers.

“Vehicle sales and leasing of cars and light trucks” means the use of any building, land area, or other premises for the display and sale or lease of any new or used car or light truck, and may include outside storage of inventory, any warranty repair work, or other repair service conducted as an accessory use.

“Vehicle sales and leasing of farm equipment, mobile homes, recreational vehicles, large trucks, and boats with outdoor storage” means the use of any building, land area, or other premises for the display and sale or lease of new or used large trucks, trailers, farm equipment, mobile homes, recreational vehicles, boats and watercraft, and may include the outside storage of inventory, any warranty repair work, or other repair service conducted as an accessory use.

“Veterinary clinic” means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

“Veterinary hospital” means a facility rendering surgical and medical treatment to large animals and household pets, providing overnight accommodations, or outdoor runs. Veterinary hospitals do not include crematoriums as an accessory use as defined in this chapter.

“Warehouse and distribution” means an establishment engaged in the storage, wholesale, and distribution of manufactured products, supplies, or equipment, including accessory offices and showrooms and shops for plumbers, electricians, and carpenters, but excluding retail sales and bulk storage of materials that are or explosive or that create hazardous conditions.

“Workshop and custom small industry” means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including activities such as repairing small engines, making, restoring, and upholstering furniture, restoring motorcycles, creating art work such as paintings and sculptures, ceramics, and other similar activities, provided any noise, odor, smoke, heat, glare, or vibration produced by such activities are confined within the building.

“Yard” means that portion of the open area on a lot extending open and unobstructed (except for accessory uses which are herein permitted) from the ground upward from a lot line for a depth or width specified by the regulations for the district in which the lot is located.

“Yard, front” means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

“Yard, rear” means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

“Yard, side” means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

“Zoning district map” means the city zoning district map dated February 18, 1997, and all amendments thereto.

18.04.050 Zoning districts – Established.

In order to carry out the provisions of this title, the city is divided into the following zoning districts:

B	Developing business district
Be	Established central business district
DR	Developing resource district
E	Employment center district
I	Developing industrial district
MAC	Mixed-use activity district
PP	Public park district
ER	Estate residential district
R1e	Established low-density residential district
R1	Developing low-density residential district
R2	Developing two-family residential district
R3e	Established high-density residential district
R3	Developing high-density residential district

18.04.060 Zoning districts – Boundaries – Titles.

- A. The boundaries of the zoning districts are established as shown on the zoning district map, which is made a part of this section by this reference. Amendments to the zoning district map may be made administratively in accordance with any zone district changes approved by ordinance by council. Technical changes to the zoning district map required to ensure that the zoning district map accurately reflects zoning districts previously approved by ordinance by council may also be made administratively.
- B. Unless otherwise defined on the zoning district map, district boundary lines are lot lines; the centerlines of streets, alleys, railroad rights-of-way or such lines extended; section lines; city limit lines; centerlines of streambeds; or other lines drawn to scale on the zoning district map. When areas are annexed to the city as tracts divided by streets with one or more tracts to be zoned differently, the zoning district boundaries shall coincide with the centerline of the streets between the differently zoned tracts. If the boundaries of a zoning district as shown on the zoning district map conflict with the boundaries of that zone district as described in the ordinance which establishes that zoning district, the boundaries described in the ordinance shall control.
- C. The planning commission shall review and make a recommendation to council on all applications for rezoning or zoning district boundary changes. The planning commission shall formulate its recommendation at the conclusion of a public hearing. The planning commission's recommendation, along with the minutes of the planning commission meeting and exhibits submitted to the planning commission, shall be forwarded to council which shall consider the planning commission's recommendation after the planning commission approves the minutes of the meeting at which the commission made its recommendation. Council shall consider the

recommendation of the planning commission and either deny or approve applications for rezoning or zoning district boundary change at the conclusion of a public hearing. Planning commission and council public hearings shall be noticed in accordance with the requirements set forth in Chapter 18.05. Applications for rezoning or zoning district boundary changes shall include the information required in Section 18.05.040.

18.04.070 Building, structure, or use exempt.

Any building, structure, or use, as to which satisfactory proof shall be presented to council that the present or proposed situation of such building, structure, or use is reasonably necessary for the convenience or welfare of the public, may be exempted from the operation of this title by council after conducting a public hearing in accordance with Chapter 18.05 with a mailed notice requirement of three hundred feet. Upon the council's making such required findings that exemption of the building, structure or use from the operation of this title is reasonably necessary for the convenience or welfare of the public, the council shall adopt a resolution exempting the building, structure or use from operation of this title.

18.04.080 Schedule adoption.

The following schedule of uses permitted by right, uses permitted by special review, minimum area of lot, minimum width of lot, minimum front yard, minimum rear yard, minimum side yard, and minimum off-street parking area regulations for the various zoning districts (Chapters 18.08 through 18.38) is adopted and declared to be part of this title and may be amended in the same manner as any other part of this title.

18.04.90 Concurrent submittal and review of a site development plan application.

- A. For any development application governed by the provisions of this title, the applicant may submit a concurrent application for a site development plan for the subject lot or tract, as set forth in Chapters 18.39 and 18.46. If applicable, any public improvement construction plans and other plans and supporting documents submitted in association with the development application shall be deemed to be part of the site development plan application; however, adopted fees must be paid for each application type.
- B. The site development plan shall be reviewed by the development review team concurrently with the related development application. Upon final approval of the associated development application and the recording of final documents, as applicable, the city may also approve the associated site development plan provided that: (i) the site development plan contains all information necessary for final approval; and (ii) prior to approval of the site development plan, the site will be a legal lot of record upon which the proposed development may occur pursuant to applicable provisions of the Code.

Chapter 18.05

PUBLIC NOTICE REQUIREMENTS

Sections:

18.05.010	Purpose.
18.05.020	Neighborhood meetings.
18.05.030	Mailed notice for neighborhood meetings.
18.05.040	Posted notice for neighborhood meetings.
18.05.050	Public hearings.
18.05.060	Mailed notice for public hearings.
18.05.070	Posted notice for public hearings.
18.05.080	Published notice for public hearings.
18.05.090	Staff decisions.
18.05.100	Computation of time.
18.05.110	Notice cost.
18.05.120	Applicant's certification.
18.05.130	Failure to provide notice -- Defective notice.
18.05.140	Continuation of hearings and neighborhood meetings.
18.05.150	Notice for appeals.

18.05.010 Purpose.

This chapter provides standards for public notice for neighborhood meetings, public hearings, and staff decisions as specified within this title.

18.05.020 Neighborhood meetings.

Neighborhood meetings are required for the application types listed in Table 18.05-1. Mailed and posted public notice is required for neighborhood meetings. It is the applicant's responsibility to mail and post public notice for neighborhood meetings.

18.05.030 Mailed notice for neighborhood meetings.

- A. Deadline for mailing. At least fifteen days prior to a neighborhood meeting, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 18.05.030.C.1., at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the city prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 18.05.120.
- B. Content. The written (mailed) notice for neighborhood meetings shall include the following:
 1. Time, date, and location of the meeting.
 2. The application(s) to be considered.
 3. Project name.
 4. Applicant's name.
 5. Vicinity map identifying the site within the neighborhood context.
 6. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the current planning division office.

7. Description of the proposal for the subject property, including existing and proposed zoning, if applicable.
 8. Primary contact (applicant or applicant's consultant) information, including name of individual, name of company, phone number, and e-mail address.
 9. Secondary contact (current planning division) information, including the name, phone number, and email address of the reviewing planner.
- C. Requirements for mailing.
1. Ownership list. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall within the distances provided in Table 18.05-1 and Sections 18.05.030.C.3. through 6., shall be submitted to the current planning division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty days prior to the mailing.
 2. Area of notification. For all applications requiring written (mailed) public notice, the distances specified in Table 18.05-1 shall be used to determine the area to which such notice shall be given, except as provided in Sections 18.05.030.C.3. through 6. All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

Table 18.05-1 MAILED NOTICE DISTANCE REQUIREMENTS FOR NEIGHBORHOOD MEETINGS			
Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Oil and Gas Permit -per Chapter 18.77	2,200 ft. (measured from boundary of property on which surface use will occur under permit)	2,200 ft. (measured from boundary of property on which surface use will occur under permit)	2,200 ft. (measured from boundary of property on which surface use will occur under permit)
Annexation, Zoning	1,200 ft.	1,200 ft.	1,200 ft.
Comprehensive Plan Amendment	See Section 6.0 of the Loveland Comprehensive Master Plan		
Conceptual Master Plan-new or major amendment (MAC and E districts)	600 ft. or 1,200 ft. if there is an accompanying annexation application	900 ft. or 1,200 ft. if there is an accompanying annexation application	1,200 ft.
Major Home Occupation	All members of the neighborhood <i>as defined in Section 18.48.020</i>		
PUD General Development Plan	1,200 ft.	1,200 ft.	1,200 ft.
PUD Preliminary Development Plan	600 ft.	900 ft.	1,200 ft.
Rezoning	600 ft.	900 ft.	1,200 ft.
Special Review	600 ft.	900 ft.	1,200 ft.
Variance	200 ft.	200 ft.	200 ft.

3. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
4. Lake, golf course, and park front notification.
 - a. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 18.05-1. For the purposes of this provision, lake front properties include those that are separated from the lake up to fifty feet by undevelopable property such as open space tracts and outlots.
 - b. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the current planning manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in a. above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the neighborhood meeting.
5. Reduction in notification area. All notification distances in Table 18.05-1 shall be reduced by fifty percent, except for oil and gas permits and variances, for infill projects that are less than five acres in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty percent of its boundary, to properties within the existing city limits of the city of Loveland.
6. Expansion of notification area. The area of required notification may be expanded up to twice the distance specified in Table 18.05-1 if the current planning manager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The reduction in notification area as described in Subsection 5. above shall not apply when there is an expansion of the notification area. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the neighborhood meeting.

18.05.040 Posted notice for neighborhood meetings.

- A. Deadline for posting. At least fifteen days prior to a neighborhood meeting, the applicant shall post a notice on the subject property.
- B. Content. The posted notice for neighborhood meetings shall include the following:
 1. Time, date, and location of the meeting.
 2. The application(s) to be considered.
 3. Project name.
 4. Current planning division contact information, including the division phone number.
- C. Requirements for posting.
 1. It shall be the applicant's responsibility to have the sign(s) created by a sign company.
 2. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign(s) on the site and ensure that the sign(s) remain in place during the full fifteen-day period leading up to the neighborhood meeting. The current planning division shall provide the applicant with specifications for the posting location of the required signs.
 3. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the city prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 18.05.120.

18.05.050 Public hearings.

Public hearings are required for the application types listed in Table 18.05-2. Mailed, posted and published public notice is required for public hearings. It is the applicant's responsibility to mail and post public notice for public hearings; the city is responsible to publish notice for public hearings.

18.05.060 Mailed notice for public hearings.

- A. Deadline for mailing. At least fifteen days prior to a public hearing, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 18.05.060.C.1., at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the city prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 18.05.120.
- B. Content. The mailed notice for public hearings shall include the following:
 1. Time, date, and location of the hearing.
 2. The application(s) to be considered.
 3. Project name.
 4. Applicant's name.
 5. Vicinity map identifying the site within the neighborhood context.
 6. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the current planning division office.
 7. Description of the proposal for the subject property.
 8. Primary contact (applicant or applicant's consultant) information, including name of individual; name of company; phone number; e-mail address.
 9. Secondary contact (current planning division) information, including the name, phone number and email address of the reviewing planner.
 10. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the current planning division.
- C. Requirements for mailing.
 1. Ownership list. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall within the distances provided in Table 18.05-2 and Sections 18.05.060.C.3. through 7., shall be submitted to the current planning division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty days prior to the mailing.
 2. Area of notification. For all applications requiring written (mailed) public notice, the distances specified in Table 18.05-2 shall be used to determine the area to which such notice shall be given, except as provided in Sections 18.05.060.C.3. through 7. All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

Table 18.05-2 MAILED NOTICE DISTANCE REQUIREMENTS FOR PUBLIC HEARINGS			
Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Oil and Gas Permit -per Chapter 18.77	2,200 ft. (measured from boundary of	2,200 ft. (measured from boundary of	2,200 ft.

	property on which surface use will occur under permit)	property on which surface use will occur under permit)	(measured from boundary of property on which surface use will occur under permit)
Annexation, Zoning	1,200 ft.	1,200 ft.	1,200 ft.
Be District Developments*	300 ft.	300 ft.	300 ft.
Comprehensive Plan Amendment	See Section 6.0 of the Loveland Comprehensive Master Plan		
Conceptual Master Plan-new or major amendments (MAC and E districts)	600 ft. or 1,200 ft. if there is an accompanying annexation application	900 ft. or 1,200 ft. if there is an accompanying annexation application	1,200 ft.
Height Exception	300 ft.	300 ft.	300 ft.
PUD General Development Plan	1,200 ft.	1,200 ft.	1,200 ft.
PUD Preliminary Development Plan	600 ft.	900 ft.	1,200 ft.
Rezoning	600 ft.	900 ft.	1,200 ft.
Special Review for Type 3 permit	600 ft.	900 ft.	1,200 ft.
Variance	200 ft.	200 ft.	200 ft.

* For Be district developments requiring approval of planning commission as indicated in 18.24.050

3. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
4. Lake, golf course, and park front notification.
 - a. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 18.05-2. For the purposes of this provision, lake front properties include those that are separated from the lake up to fifty feet by undevelopable property such as open space tracts and outlots.
 - b. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the current planning manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in a. above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the neighborhood meeting.
5. Reduction in notification area. All notification distances in Table 18.05-2 shall be reduced by fifty percent, except for oil and gas permits and variances, for infill projects that are less than five acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty percent of its boundary, to properties within the existing city limits of the city of Loveland.
6. Expansion of notification area. The area of required notification may be expanded up to twice the distance specified in Table 18.05-2 if the current planning manager reasonably

anticipates interest or concern regarding the application from community members beyond the required distance. The reduction in notification area as described in Subsection 5. above shall not apply when there is an expansion of the notification area. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one days prior to the public hearing.

7. Mineral estate owners. The notification of mineral estate owners of the property which is the subject of a public hearing shall be given by the applicant at least thirty days prior to the public hearing in accordance with the requirements of the Colorado Notification of Surface Development Act, C.R.S. 24-65.5-101 *et seq.* (the “act”). An affidavit of the applicant’s compliance with such requirements shall be provided to the city prior to the public hearing for which the notice was given and shall meet the provisions of the act.

18.05.070 Posted notice for public hearings.

- A. Deadline for posting. At least fifteen days prior to a public hearing, the applicant shall post a notice on the subject property.
- B. Content. The posted notice for public hearings shall include the following:
 1. Time, date, and location of the hearing.
 2. The application(s) to be considered.
 3. Project name.
 4. Current planning division contact information, including the division phone number.
- C. Requirements for posting.
 1. It shall be the applicant’s responsibility to have the sign(s) created by a sign company.
 2. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant’s responsibility to post the sign(s) on the site and ensure that the sign(s) remain in place during the full fifteen-day period leading up to the public hearing. The current planning division shall provide the applicant specifications for the location of signs required for the site.
 3. An affidavit of the applicant’s compliance with the posted notice requirements shall be provided to the city prior to the public hearing for which the notice was given and shall satisfy the requirements of Section 18.05.120.

18.05.080 Published notice for public hearings.

- A. Deadline for publishing. Notice shall be published by the current planning division at least fifteen days prior to a public hearing.
- B. Content. The published notice for public hearings shall include the following:
 1. Time, date, and location of the hearing.
 2. The application(s) to be considered.
 3. Project name.
 4. Applicant’s name.
 5. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the current planning division office.
 6. Description of the proposal for the subject property.
 7. Current planning division contact information, including the division phone number.
 8. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the current planning division.

- C. Requirements for publishing. Notice of the public hearing shall be published one time in a newspaper of general circulation.

18.05.090 Staff decisions.

- A. Required notice. Mailed or posted public notice is required for certain staff decisions relating to special review and major home occupation applications. Refer to Chapter 18.40 for requirements applicable to special review application and Section 18.48.020 for requirements applicable to major home occupation application.
- B. Optional notice. Notice of staff decisions authorized under this title but not otherwise subject to specific notice requirements may be required by the current planning manager when the following circumstances exist:
 - 1. A discretionary decision has been made by staff concerning the application of one or more regulations contained in this title; and
 - 2. The decision may impact the use or enjoyment of property within the vicinity of the subject site; and
 - 3. There is reason to believe that there may be parties of interest residing or owning property within the vicinity of the affected property.
- C. Type and distance of optional notice. Notice type(s) and distance for optional notice shall be at the discretion of the current planning manager. In no instance shall mailed notice exceed three hundred feet from the boundary of the subject property.

18.05.100 Computation of time.

In computing any period of time prescribed for the purpose of giving notice under the provisions of this chapter, the day of the publication, mailing, or posting shall be included. The day of the meeting or hearing shall not be counted. Saturdays, Sundays, and legal holidays shall be counted as any other day.

18.05.110 Notice cost.

All costs for providing public notice as required by this chapter shall be the responsibility of the applicant except for published notice.

18.05.120 Applicant's certification.

Prior to the neighborhood meeting or public hearing, the applicant shall provide the current planning division with an affidavit certifying that the requirements as to the applicant's responsibility for the applicable forms of notice under this chapter have been met. The current planning division shall provide a sample of the certification, which shall address all applicable forms of public notice required of the applicant in Sections 18.05.020 and 18.05.050.

18.05.130 Failure to provide notice -- Defective notice.

Failure to provide the required affidavit, or evidence of a defective mailing list prior to a neighborhood meeting or public hearing, shall result in termination of the review process until proper notice is provided, meeting all applicable provisions herein.

18.05.140 Continuation of hearings and neighborhood meetings.

A hearing or neighborhood meeting for which proper notice was given may be continued to a later date without again complying with the public notice requirements of this chapter, provided that the date, time, and location of the continued hearing or meeting is announced to the public at the time of continuance.

18.05.150 Notice for appeals.

Any final decision under this title that is appealed is subject to the same notice standards as the original notice.

Chapter 18.07

ER DISTRICT – ESTATE RESIDENTIAL DISTRICT

Sections:

- 18.07.010 Purpose.**
- 18.07.020 Applicability.**
- 18.07.030 Definitions.**
- 18.07.040 Uses permitted by right.**
- 18.07.050 Uses permitted by special review.**
- 18.07.060 Development standards.**

18.07.010 Purpose.

The estate residential (ER) district is intended to establish and preserve quiet, very low-density single-family residential neighborhoods with urban level services. This district is intended to accomplish the intent of the estate residential land use designation on the Comprehensive Master Plan Land Use Map. Development under this district is to provide an urban estate transition from higher urban densities in the city to rural densities in the county and preserve environmentally sensitive areas as open space. Generous building setbacks and lot frontages will provide significant space between dwellings to create an estate residential appearance within developed neighborhoods and to preserve view corridors. It is intended that this district be separated from the city's primary employment or commercial activity centers and located adjacent to major public open space features on the edge of the growth management area.

18.07.020 Applicability.

The ER district is applicable for developments in the estate residential land use category as depicted on the Comprehensive Master Plan Land Use Map.

18.07.030 Definitions.

As used in this chapter:

"Buildable area" means land area within the development plan that is not Unbuildable Area, as defined herein.

"Environmentally-sensitive area" is defined in Section 18.41.110.B.

"Unbuildable area" means land area within the development plan that is recommended in an environmentally sensitive areas report to be maintained as permanent open space, including, but not limited to: (i) natural areas with an overall habitat rating of six or higher; (ii) land with slopes of twenty percent or greater; (iii) land designated by the Federal Emergency Management Agency as floodway; and (iv) land containing wetlands regulated by the U.S. Army Corps of Engineers. Natural areas shall be rated in accordance with the rating system used in the document entitled "In the Nature of Things, Loveland's Natural Areas" dated December 1993, revised October 1996, and as amended from time-to-time.

18.07.040 Uses permitted by right.

The following uses are permitted by right in an ER district:

- A. Single-family dwellings;
- B. Parks, recreation areas and golf courses or driving ranges which do not have sport lighting over twenty feet in height;
- C. Essential aboveground pad-mount transformers, electric and gas meters, telephone, cable television, and electric junction and service locations, and underground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, cable television, telephone and other utility services for the protection and welfare of the surrounding

area. Business offices, repair, storage and production facilities associated with these uses are not included as uses permitted by right;

- D. Open land dedicated and maintained with native vegetation as a natural area;
- E. Accessory buildings and uses;
- F. Public schools; and
- G. Place of worship or assembly.

18.07.050 Uses permitted by special review.

The following uses are permitted by special review in an ER district:

- A. Preschool nurseries;
- B. Parks, recreation areas and golf courses or driving ranges with sport lighting greater than twenty feet in height;
- C. Cemeteries;
- D. Private schools;
- E. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area. Business offices, repair, storage and production facilities associated with these uses are not included as uses permitted by special review;
- F. Child care centers licensed according to the statutes of the state and in conformity with the minimum rules and regulations for child care centers adopted in accordance with such statutes; such use may be conducted in conjunction with the residential use of the property;
- G. Governmental or semipublic uses;
- H. Group care facilities;
- I. Accessory dwelling units; and
- J. Personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55.

18.07.060 Development standards.

- A. Type 1 standards.

The following standards shall be administered as type 1 standards in accordance with section 18.53.020.

- 1. Lot size and dimensions.

Minimum lot area and lot width and side, front and rear yards shall be as shown in Table 18.07-1, below.

Table 18.07-1: Lot Size and Dimensions					
Lot Area (sq. ft.)		Minimum Lot Width ¹ (ft.)	Yards (ft.)		
Average ²	Minimum ²	100	Side	Front	Rear
18,500	16,000		20	30	25
Notes:					
1. Measured at front yard setback.					
2. No more than 25% of the lots may be smaller than the average lot size. The average lot size is the minimum average size of the lots; a larger average is permitted.					

2. Minimum lot size for place of worship or assembly. The minimum lot area for a place of worship or assembly shall be 18,500 square feet or three times the total building floor area, whichever is greater.
3. Height limitations. The maximum height of buildings and structures shall be thirty-five feet.
4. Environmentally sensitive areas. Where, as determined by the city, an environmentally sensitive area exists on the site or on adjacent areas that may be impacted by a proposed development, an Environmentally Sensitive Areas Report (shall be prepared at the time of initial zoning. The report shall identify and assess the potential impacts on environmentally sensitive areas and describe measures to mitigate such impacts. The mitigation measures described by the Environmentally Sensitive Areas Report shall be incorporated into the development. Environmentally sensitive areas recommended in the Environmentally Sensitive Areas Report to be maintained as permanent open space shall be located in separate tracts designated as 'open space' on the subdivision plat and not included within any lot on which a dwelling is permitted. Environmentally sensitive area open space shall be permanently preserved as open space through dedication of ownership to a homeowners association, if acceptable to the city, or placement of an appropriate easement granted to the city or other nonprofit organization acceptable to the city. The easement shall establish restrictive provisions and future interests as may be necessary to ensure protection of the open space in accordance with the recommendations of the Environmentally Sensitive Areas Report. As a condition of approval, the city may also require that the open space be maintained under the terms of a management and maintenance agreement with the city.
5. Density. Gross density of the developable area shall all not exceed two dwelling units per acre.
6. Open Space. A minimum of ten percent of the developable area shall be set aside as permanent private open space. Roads and required curbside buffer yards shall not be counted as part of this ten percent open space requirement. The open space required within the developable area shall be permanently preserved as open space in a method approved by the current planning manager.

B. Type 2 standards.

The following site design standards shall be administered as type 2 standards in accordance with section 18.53.020. Type 2 standards allow flexibility in how the standard is applied if it is demonstrated that the proposed alternative compliance meets the intent of the standard.

1. Development areas shall be planned to protect views of distinctive natural features such as ridge lines, open space separators, mountain backdrop, major bodies of water, wildlife habitat, and other natural areas and parks.
2. Where views of buildings would disrupt the view or value of established open space or natural features, buildings shall be integrated into the existing natural character through sensitive location and design of structures and associated improvements. For example, visual impacts can be reduced and better view protection provided through careful building placement and consideration of building heights, building bulk, and separations between buildings. Also, variations in rooflines and building mass, architectural design and color, and use of natural materials can be used to maintain the visual integrity of the landscape and minimize large expanses of flat planes in highly visible locations
3. Where existing lots immediately adjacent to planned development are greater than 18,500 square feet, lot areas immediately adjacent to such existing lots shall be equal to, or greater than, the average lot area of such existing lots.
4. Buffers and setbacks shall be increased where the adjoining uses are incompatible or where the adjoining use is a public area or significant natural feature.

5. Substantial grade differences between existing and planned developments shall be considered and impacts associated with privacy mitigated with building height limitations or increased building setbacks.
6. Buildings shall be clustered and located along contour lines in a manner that minimizes disturbance of slopes and protects views of the natural feature.
7. On sites containing a place of worship or assembly, in addition to compliance with the standard buffer yards requirements set forth in the site development performance standards and guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially zoned land by a six foot high opaque wall, fence, or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the current planning manager. (Ord. 5269 § 1, 2007)

Chapter 18.08

R1e DISTRICT - ESTABLISHED LOW-DENSITY RESIDENTIAL DISTRICT*

Sections:

18.08.010	Purpose
18.08.015	Uses permitted by right.
18.08.020	Uses permitted by special review.
18.08.030	Lot area.
18.08.040	Lot width.
18.08.050	Front yard.
18.08.060	Rear yard.
18.08.070	Side yard.
18.08.075	Height limitations.
18.08.080	Off-street parking.
18.08.090	Special considerations.

*For statutory provisions authorizing division of the municipality into districts, see CRS 31-23-302.

18.08.010 Purpose.

The established low-density residential zoning district is intended to preserve established low density residential neighborhoods and to provide standards for the development of single family detached dwellings.

18.08.015 Uses permitted by right.

The following uses are permitted by right in an established low-density residential (R1e) district:

- A. One-family dwellings;
- B. Essential aboveground pad-mount transformers, electric and gas meters, telephone and electric junction and service locations, and underground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- C. Open land for the raising of crops, plants and flowers;
- D. Accessory buildings and uses;
- E. Public schools; and (Ord. 4246 § 1 (part), 1997; Ord. 3702 § 1 (part), 1990; Ord. 1276 § 1, 1973; Ord. 1004 § 4.1, 1968)
- F. Place of worship or assembly. In addition to standard buffering requirements of the site development performance standards and guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially-zoned land by a six-foot high opaque wall, fence, or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the current planning manager. (Ord. 5207 § 5, 2007)

18.08.020 Uses permitted by special review.*

The following uses are permitted by special review in a R1e district:

- A. Two-family dwellings;
- B. Preschool nurseries;
- C. Parks, recreation areas, and golf courses;
- D. Estate areas;
- E. Hospitals;

- F. Private schools;
- G. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone, and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- H. Child care centers licensed according to the statutes of the state and in conformity with the minimum rules and regulations for child care centers adopted in accordance with such statutes;
- I. Governmental or semipublic uses;
- J. Group care facilities;
- K. Housing for elderly;
- L. Receiving foster care homes for up to eight children licensed according to the statutes of the state;
- M. Accessory dwelling units; and
- N. Personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55.

*See Chapter 18.40.

18.08.030 Lot area.

The minimum area of a lot in the R1e district shall be six thousand square feet except as provided below:

- A. When a group of ten or more single-family dwellings are proposed for development as a unit, the minimum lot area may be varied in order to achieve flexibility and promote creativity in design. However, in no case may the lot area be less than five thousand square feet, the average lot size be less than six thousand square feet, or more than twenty percent of the lots be less than six thousand square feet. When such development procedures are to be followed, the city-approved subdivision plat must be of record in the Larimer County Clerk and Recorder's Office.
- B. The minimum area of the lot for two-family dwellings shall be at least seven thousand square feet in the R1e district.
- C. The minimum lot area for a place of worship or assembly shall be three times the total floor area of the place of worship or assembly building.

18.08.040 Lot width.

The minimum lot width in a R1e district shall be fifty feet, except that there shall be no minimum lot width requirement for cul-de-sac lots. Cul-de-sac lots shall be designed so that driveways on adjacent lots will either be contiguous or separated by a minimum of twenty-two feet as measured along the face of curb.

18.08.050 Front yard.

The minimum front yard in a R1e district, being the minimum distance of any building from the front lot line, shall be twenty feet.

18.08.060 Rear yard.

The minimum rear yard in a R1e district, being the minimum distance of any building from the rear lot line, shall be as follows:

- Principal building, fifteen feet;
- Detached accessory building, five feet.

18.08.070 Side yard.

The minimum side yard in the R1e district, being the minimum distance of any building from each side lot line, shall be one foot for each five feet or fraction thereof of building height; except that no side yard shall be less than five feet for a one-family dwelling or two-family dwelling, nor less than twenty-five feet for any other permitted principal building. Variations to those requirements may be approved by the current planning manager for groups of three or more single-family dwellings; however, the minimum spacing between two adjacent structures shall not be less than ten feet. On corner lots the side yard setback adjacent to the street shall be no less than fifteen feet.

18.08.075 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54.

18.08.080 Off-street parking.

The minimum off-street parking in the R1e district shall be as provided in Chapter 18.42.

18.08.090 Special considerations.

The following special requirements shall apply for special review uses in the R1e district:

- A. Preschool nurseries.
 - 1. At least fifty square feet of floor area is set aside for school purposes for each child; and
 - 2. At least two hundred square feet of outdoor fenced play area is available for each child.
- B. Noncommercial recreational uses, including swimming pools, community buildings, tennis courts and similar uses as a principal use.
 - 1. Outside lighting must not be located in such a manner or be of such intensity to be distracting to adjacent residential areas or street traffic.
 - 2. All buildings and active play areas shall be located at least twenty-five feet from all lot lines.

Chapter 18.12

R1 DISTRICT-DEVELOPING LOW-DENSITY RESIDENTIAL DISTRICT

Sections:

18.12.010	Purpose.
18.12.015	Uses permitted by right.
18.12.020	Uses permitted by special review.
18.12.030	Lot area.
18.12.040	Lot width.
18.12.050	Front yard.
18.12.060	Rear yard.
18.12.070	Side yard.
18.12.075	Height limitations.
18.12.080	Off-street parking.
18.12.090	Special considerations.

18.12.010 Purpose.

The developing low-density residential zoning district provides standards for establishing and preserving low density residential neighborhoods that include single family detached dwellings and complementary uses.

18.12.015 Uses permitted by right.

The following uses are permitted by right in a developing low-density residential (R1) district:

- A. One-family dwellings;
- B. Essential aboveground pad-mount transformers, electric and gas meters, telephone and electric junction and service locations, and underground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- C. Open land for the raising of crops, plants and flowers;
- D. Accessory buildings and uses;
- E. Public schools; and
- F. Place of worship or assembly. In addition to standard buffering requirements of the site development performance standards and guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially-zoned land by a six-foot high opaque wall, fence, or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the current planning manager.

18.12.020 Uses permitted by special review.*

The following uses are permitted by special review in a R1 district:

- A. Preschool nurseries;
- B. Parks, recreation areas and golf courses;
- C. Cemeteries;
- D. Estate areas;
- E. Two-family dwellings;
- F. Private schools;
- G. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection

and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;

- H. Child care centers licensed according to the statutes of the state and in conformity with the minimum rules and regulations for child care centers adopted in accordance with such statutes; such use may be conducted in conjunction with the residential use of the property;
- I. Governmental or semipublic uses;
- J. Group care facilities;
- K. Housing for elderly;
- L. Receiving foster care homes for up to eight children licensed according to the statutes of the state;
- M. Accessory dwelling units; and
- N. Personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55.

*See Chapter 18.40.

18.12.030 Lot area.

The minimum area of a lot in the R1 district shall be seven thousand square feet as provided below:

- A. When a group of ten or more single-family dwellings are proposed for development as a unit, the minimum lot area may be varied in order to achieve flexibility and creativity in design. However, in no case shall the lot area be less than five thousand square feet, the average lot size for the unit be less than seven thousand square feet, and more than twenty percent of the lots be less than seven thousand square feet. When such development procedures are followed, the city-approved subdivision plat must be of record in the Larimer County Clerk and Recorder's Office.
- B. The minimum area of the lot for a two-family dwelling shall be at least nine thousand square feet in the R1 district.
- C. The minimum lot area for a place of worship or assembly shall be three times the total floor area of the place of worship or assembly building.

18.12.040 Lot width.

The minimum width of a lot in a R1 district shall be sixty-five feet, except that there shall be no minimum lot width requirement for cul-de-sac lots. Cul-de-sac lots shall be designed so that driveways on adjacent lots will either be contiguous or separated by a minimum of twenty-two feet as measured along the face of curb.

18.12.050 Front yard.

The minimum front yard in a R1 district, being the minimum distance of any building from the front lot line, shall be twenty feet.

18.12.060 Rear yard.

The minimum rear yard in a R1 district, being the minimum distance of any building from the rear lot line, shall be as follows:

- Principal building, fifteen feet;
- Detached accessory building, five feet.

18.12.070 Side yard.

The minimum side yard in a R1 district, being the minimum distance of any building from each side lot line, shall be one foot for each three feet or fraction thereof of building height; except that no

side yard shall be less than five feet for a one-family dwelling or two-family dwelling, nor less than twenty-five feet for any other permitted principal building. Variations to this requirement may be approved by the current planning manager for groups of three or more single-family dwellings; however, the minimum spacing between two adjacent structures shall not be less than ten feet. On corner lots the side yard setback adjacent to the street shall be no less than fifteen feet.

18.12.075 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54.

18.12.080 Off-street parking.

The minimum off-street parking in the R1 district shall be provided in Chapter 18.42.

18.12.090 Special considerations.

The following special requirements shall apply for special review uses in the R1 district:

- A. Preschool nurseries.
 - 1. At least fifty square feet of floor area is set aside for school purposes for each child; and
 - 2. At least two hundred square feet of outdoor fenced play area is available for each child.
- B. Noncommercial recreational uses, including swimming pools, community buildings, tennis courts, and similar uses as a principal use.
 - 1. Outside lighting must not be located in such a manner or be of such intensity to be distracting to adjacent residential areas or street traffic.
 - 2. All buildings and active play areas shall be located at least twenty-five feet from all lot lines.
- C. Cemeteries. The minimum area of any cemetery shall be at least twenty acres, and gravesites shall be located at least twenty-five feet from the boundaries of the cemetery.

Chapter 18.13

R2 DISTRICT-DEVELOPING TWO-FAMILY RESIDENTIAL DISTRICT

Sections:

18.13.010	Purpose.
18.13.020	Uses permitted by right.
18.13.030	Uses permitted by special review.
18.13.040	Lot area.
18.13.050	Lot width.
18.13.060	Front yard.
18.13.070	Rear yard.
18.13.080	Side yard.
18.13.085	Height limitations.
18.13.090	Off-street parking.
18.13.100	Landscaping.
18.13.110	Special considerations.

18.13.010 Purpose.

The purpose of the developing two-family residential zoning district is to provide for the orderly development of low-density residential uses and to allow for the development of two-family dwellings in appropriate locations as a gradual transition from single-family residential to multiple family or commercial uses.

18.13.020 Uses permitted by right.

The following uses are permitted by right in a R2 district;

- A. One-family dwellings;
- B. Two-family dwellings;
- C. Essential aboveground pad-mount transformer, electric and gas meters, telephone and electric junction and service locations, and underground utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone, and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- D. Open land for the raising of crops, plants and flowers;
- E. Accessory buildings and uses;
- F. Public schools;
- G. Accessory dwelling units; and
- H. Place of worship or assembly. In addition to standard buffering requirements of the site development performance standards and guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially-zoned land by a six-foot high opaque wall, fence, or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the current planning manager.

18.13.030 Uses permitted by special review.*

The following uses are permitted by special review in a R2 district:

- A. Preschool nurseries;
- B. Parks, recreation areas and golf courses;
- C. Cemeteries;
- D. Governmental or semipublic uses;

- E. Three-family dwellings;
- F. Private schools;
- G. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- H. Child care centers licensed according to the statutes of the state and in conformity with the minimum rules and regulations for child care centers adopted in accordance with such statutes;
- I. Group care facilities;
- J. Receiving foster care homes for up to eight children licensed according to the statutes of the state;
- K. Housing for elderly; and
- L. Personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55.

*See Chapter 18.40.

18.13.040 Lot area.

The minimum area of a lot in the R2 district shall be eight thousand feet except as provided below;

- A. When a group of ten or more two-family dwellings are proposed for development as a unit, the minimum lot area may be varied to achieve flexibility and creativity in design. However, in no case shall the lot area be less than seven thousand square feet, the average lot size for the unit be less than eight thousand square feet, and more than twenty percent of the lots be less than eight thousand square feet. When such development procedures are followed, the city-approved subdivision plat must be of record in the Larimer County Clerk and Recorder's Office.
- B. The minimum area of a lot for a three-family dwelling shall be nine thousand feet.
- C. The minimum lot area for a place of worship or assembly shall be three times the total floor area of the place of worship or assembly building.

18.13.050 Lot width.

The minimum width of a lot in a R2 district shall be sixty-five feet, except that there shall be no minimum lot width requirement for cul-de-sac lots. Cul-de-sac lots shall be designed so that driveways on adjacent lots will either be contiguous or separated by a minimum of twenty-two feet as measured along the face of curb. Where a lot is divided into three lots for the purpose of separate conveyance of each lot after a three-family dwelling has been constructed thereon, the minimum width of each parcel shall be thirty feet.

18.13.060 Front yard.

The minimum front yard of a lot in a R2 district, being the minimum distance of any building from the front lot line, shall be twenty feet. When more than two two-family or three-family dwellings are located adjacent to each other, the front yard dimension shall be varied by at least four feet; provided, the front yard setback is not less than twenty feet on any lot or parcel.

18.13.070 Rear yard.

The minimum rear yard in a R2 district being the minimum distance of any building from the rear lot line, shall be as follows:

- Principal building, fifteen feet;
- Detached accessory building, five feet.

18.13.080 Side yard.

The minimum side yard in a R2 district, being the minimum distance of any building from each side lot line, shall be one foot for each three feet or fraction thereof of building height; except that no side yard shall be less than five feet for a one-family dwelling, a two-family dwelling or a three-family dwelling, nor less than twenty-five feet for any other permitted principal building. Variations to this requirement may be approved by the current planning manager for groups of three or more two-family dwellings or three-family dwellings; however, the minimum spacing between two adjacent structures shall not be less than ten feet. On corner lots the side yard setback adjacent to the street shall be no less than fifteen feet.

18.13.085 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54.

18.13.090 Off-street parking.

The minimum off-street parking in the R2 district shall be as provided in Chapter 18.42.

18.13.100 Landscaping.

All parcels developed within the R2 district shall be landscaped with grass, shrubs, trees, or decorative materials. A minimum of two trees shall be provided for each dwelling unit. The required trees may be a combination of deciduous and coniferous trees with each deciduous tree having a minimum caliper of two inches at time of planting and each coniferous tree having a minimum height of six feet. At least one of the trees for each dwelling unit shall be a deciduous tree and shall be placed in the front yard of the parcel. A proposed landscape plan demonstrating compliance with these requirements shall be submitted to the city with the building permit application for the dwelling unit. All landscaping requirements shall be completed prior to occupancy of the structure or, if occupancy is desired during unfavorable weather, within thirty days following the beginning of the next annual planting season.

18.13.110 Special considerations.

The following special requirements shall apply for special review uses in the R2 district:

- A. Preschool Nurseries.
 - 1. At least fifty square feet of floor area is set aside for school purposes for each child; and
 - 2. At least two hundred square feet of outdoor fenced play area is available for each child.
- B. Noncommercial recreational uses, including swimming pools, community buildings, tennis courts and similar uses as a principal use.
 - 1. Outside lighting must not be located in such a manner or be of such intensity to be distracting to adjacent residential areas or street traffic.
 - 2. All buildings and active play areas shall be located at least twenty-five feet from all lot lines.

Chapter 18.16

R3e DISTRICT-ESTABLISHED HIGH-DENSITY RESIDENTIAL DISTRICT

Sections:

18.16.010	Purpose. Uses permitted by right.
18.16.015	
18.16.020	Uses permitted by special review.
18.16.030	Lot area.
18.16.040	Lot width.
18.16.050	Front yard.
18.16.060	Rear yard.
18.16.070	Side yard.
18.16.075	Height limitations.
18.16.080	Usable open space.
18.16.090	Off-street parking area.
18.16.100	Site development plan review.
18.16.110	North Cleveland sub-area identification and supplemental regulations

18.16.010 Purpose.

The established high-density residential zoning district provides standards that are intended to preserve the traditional building and use pattern of mixed housing types, including multi-family dwellings having up to four units, and complementary low-intensity commercial uses predominantly located within established neighborhoods.

18.16.015 Uses permitted by right.

The following uses are permitted by right in an established high-density residential (R3e) district:

- A. Single-family dwellings attached or detached not exceeding four dwelling units;
- B. Two family dwellings;
- C. Multiple-family dwellings not exceeding four dwelling units;
- D. Essential aboveground pad-mount transformers, electric and gas meters, telephone and electric junction and service locations, and underground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- E. Open land for the raising of crops, plants and flowers;
- F. Accessory buildings and uses;
- G. Public schools;
- H. Combined use developments of permitted uses;
- I. Place of worship or assembly. In addition to standard buffering requirements of the site development performance standards and guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially-zoned land by a six-foot high opaque wall, fence; or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the current planning manager;
- J. Shelter for victims of domestic violence, subject to Section 18.52.070;
- K. Accessory dwelling units;

- L. Professional offices located in the North Cleveland sub-area subject to the following limitations:
 - a) the building footprint of a principal structure existing prior to (insert the date of ordinance) may be expanded up to a maximum of twenty-five percent; b) the use of non-principle structures for office use is disallowed; c) medical and dental clinics are not considered professional offices for the purposes of this provision; and
- M. Personal service shops located in the North Cleveland dub-area including allowance of a maximum twenty-five percent expansion of the building footprint of a principal structure existing prior to September 21, 2010.

18.16.020 Uses permitted by special review.*

The following uses are permitted by special review in a R3e district:

- A. Boarding and rooming houses;
- B. Colleges and universities;
- C. Combined use developments which include any permitted use only by special review;
- D. Congregate care facility;
- E. Day care center;
- F. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- G. Foster care homes for up to eight children licensed according to the statutes of the state;
- H. Fraternity and sorority houses;
- I. Governmental or semipublic uses;
- J. Group care facilities;
- K. Health care service facility;
- L. Hospitals, nursing homes and sanitariums;
- M. Medical and dental clinics;
- N. Multiple-family dwellings exceeding four dwelling units;
- O. Multiple-family dwellings for the elderly, where at least one occupant of each unit is elderly and such unit is not occupied by any person who is not elderly, unless such other occupant is the spouse of the elderly occupant;
- P. Neighborhood shopping center;
- Q. Parks, recreation areas and golf courses;
- R. Personal service shops located outside of the North Cleveland sub-area;
- S. Personal service shop expansions located in the North Cleveland sub-area when such an expansion is greater than twenty-five percent of a principal building footprint existing prior to (insert date of ordinance);
- T. Personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55;
- U. Preschool nurseries;
- V. Private schools;
- W. Professional offices located outside of the North Cleveland sub-area;
- X. Professional office expansions located in the North Cleveland sub-area when such an expansion is greater than twenty-five percent of a principal building footprint existing prior to (insert date of ordinance);
- Y. Retail sales of primarily small prescription medical goods, not including the cultivation or sale of medicinal marijuana, when located within five hundred feet of hospital environs;
- Z. Single-family attached dwellings exceeding four dwelling units; and
- AA. Small animal hospitals and clinics;

*See Chapter 18.40.

18.16.030 Lot area.

The minimum area of a lot shall be as follows:

Land Use	Minimum Square Footage (Lot Area)
Single-family dwelling or two-family dwelling	6,000 square feet
Three or four-family dwelling	6,000 square feet plus 1,000 square feet per unit in excess of two units
More than four-family dwelling	8,000 square feet plus 1,500 square feet per dwelling unit in excess of four dwelling units
Multiple-family dwellings for the elderly	7,000 square feet
Nonresidential Uses	6,000 square feet*
Public utility and public service installations	No minimum required

*For special review uses, lot areas greater than the minimum lot area provided above may be required based on the compatibility with the surrounding area and an analysis of the factors listed in Section 18.40.015.

18.16.040 Lot width.

The minimum width of a lot shall be fifty feet, except that there shall be no minimum lot width requirement for cul-de-sac lots. Cul-de-sac lots shall be designed so that driveways on adjacent lots will either be contiguous or separated by a minimum of twenty-two feet as measured along the face of curb. Where a lot is divided into three lots for the purpose of separate conveyance of each lot after a three-family dwelling has been constructed thereon, the minimum width of each parcel shall be thirty feet.

18.16.050 Front yard.

- A. Outside of the North Cleveland sub-area, the minimum front yard shall be twenty-five feet, except for a single-family, two-family or three-family dwelling, for which the minimum front yard shall be fifteen feet to the front façade and twenty feet measured from the back of the sidewalk to the garage door. For properties with front yard detached sidewalks, the width of the treelawn within a public right-of-way, if over four feet, may be counted as part of the fifteen-foot front façade setback.
- B. Inside the North Cleveland sub-area, the front yard shall be within three feet of the average front yard on the block face.

18.16.060 Rear yard.

The minimum rear yard shall be as follows:

Principal building, fifteen feet;
Detached accessory building, five feet.

18.16.070 Side yard.

The minimum side yard shall be one foot for each five feet or fraction thereof of building height, except that no side yard shall be less than five feet. On corner lots the minimum side yard setback shall be no less than fifteen feet.

18.16.075 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54.

18.16.080 Usable open space.

Outside of the North Cleveland sub-area, the usable open space shall be twenty percent of the total lot area. Inside the North Cleveland sub-area, the usable open space shall be ten percent of the total lot area.

18.16.090 Off-street parking area.

The minimum off-street parking shall be as provided in Chapter 18.42.

18.16.100 Site development plan review.

Category 2 development shall be subject to the provisions of Chapters 18.39 and 18.46, and the site development performance standards as provided in Chapter 18.47.

18.16.110 North Cleveland sub-area identification and supplemental regulations.

The North Cleveland sub-area is the area located within North Cleveland Avenue between 10th Street on the south, to its northern terminus at Lincoln Avenue (north of 16th Street), as depicted in Figure 18.16.110-1. The sub-area is established to preserve and maintain the existing character of the Cleveland corridor and ensure compatibility between differing land uses while allowing the conversion of residential structures into low intensity nonresidential uses. In addition to the standards set forth in the R3e zone district, the following supplemental regulations shall apply to all properties abutting north Cleveland Avenue located within the North Cleveland sub-area:

A. Concept review requirement.

A concept review meeting is required prior to the submittal of a building permit which includes exterior changes or for a site development permit.

B. Hours of operation.

The hours of operation for nonresidential uses, in which services are provided to the general public, shall be limited to between 7:00 a.m. and 7:00 p.m. daily, unless otherwise approved through a special review.

C. Design standards.

1. Building additions and new development.

- a. Type 1 standard. Building additions and new development shall be designed to be compatible with the existing residential character of principal structures on the same block and generally within the North Cleveland sub-area. Exterior materials, colors, scale, massing, height, street orientation and setbacks of new construction or additions shall be designed to be compatible with the characteristics of existing principal buildings facing Cleveland Avenue existing within the same block.
- b. Type 2 standard. Building additions and new development shall include pitched roofs with slope ratios and overhangs consistent with the characteristics of existing residential structures in the North Cleveland sub-area. Principal buildings shall have primary building entries and vertically-oriented windows which face Cleveland Avenue.

2. Off-street parking.

- a. Each of the following requirements must be met as a type 1 standard for off-street parking:
 - i) Off-street parking areas and drive aisles serving parking areas shall be screened from adjacent residential properties.
 - ii) Off-street parking is prohibited between the front façade of the primary building and Cleveland Avenue.
- b. Each of the following requirements must be met as a type 2 standard for off-street parking:
 - i. When drive aisles or off-street parking areas are within ten feet of a property line shared by an adjacent residential use, a landscape screen of coniferous plantings or

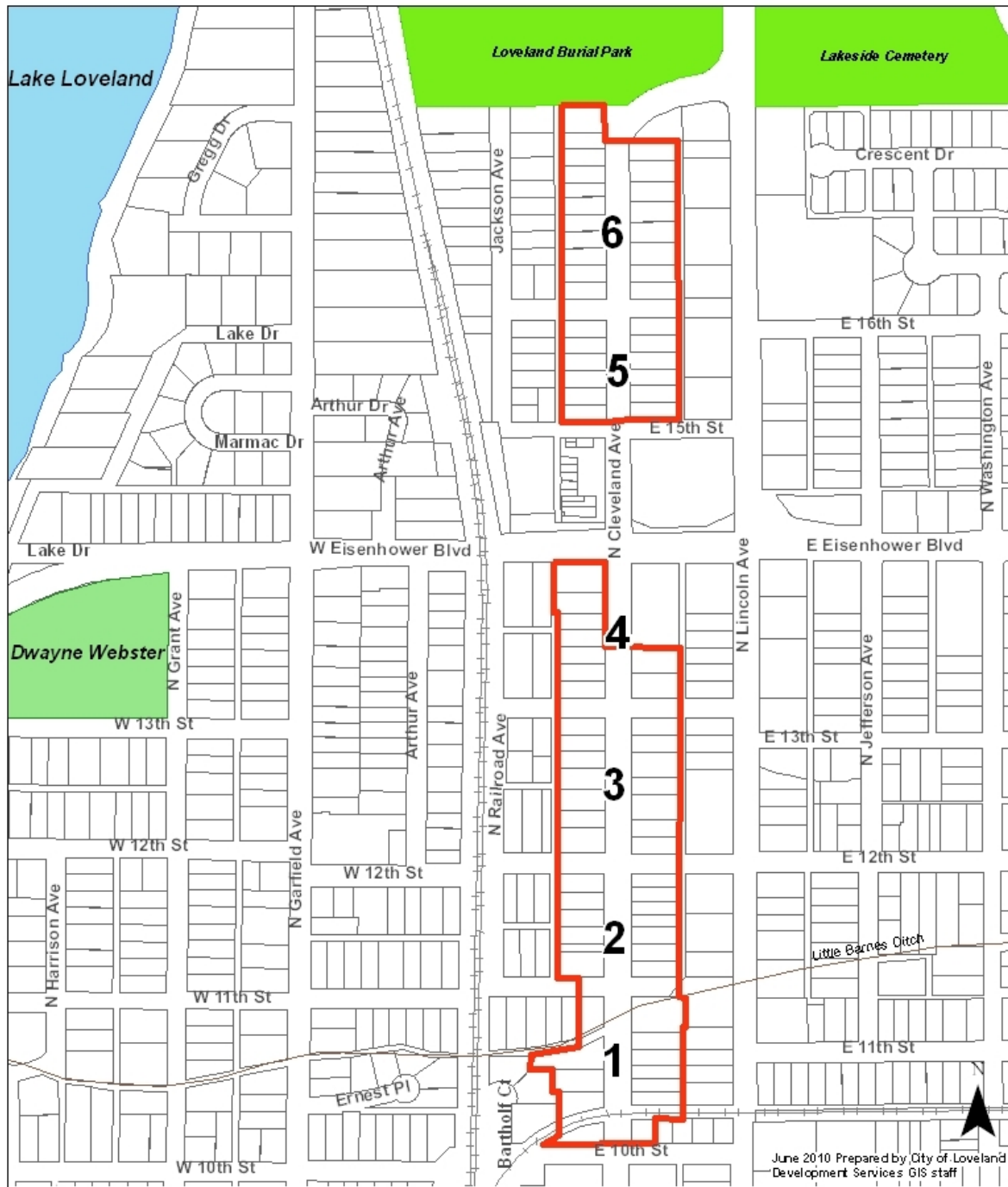
opaque wall or fence of four feet in height or greater shall be provided. The location of the wall or fence shall not extend in front of the front façade of the principal structure. The applicable provisions of Chapter 18.42 and Section 3.04 of the Site Development Performance Standards and Guidelines shall otherwise apply to nonresidential uses in this sub-area.

- ii. Off-street parking for nonresidential uses shall be provided at the rear of the property to maintain the character of the corridor and shall have a minimum setback of three feet from side yard property lines. Where parking at the rear of the site is not possible, alternative compliance as provided for in Section 18.42.030A., may be used to establish an alternative parking plan for the site.
 - iii. The maximum width of a drive aisle connecting to North Cleveland Avenue shall be twelve feet for that portion which is in front of the front façade of the principal structure.
3. Landscaping.
- a. Type 1 standard. Tree lawn, parking lot landscaping, and parking lot screening provisions specified in Chapter 4 of the Site Development Performance Standards and Guidelines shall be applicable to all nonresidential uses; provided, however, the bufferyard and streetside bufferyard provisions of Section 4.04 shall not be required.
 - b. Each of the following requirements must be met as a type 2 standard for landscaping:
 - i. Street trees as approved by the current planning division shall be provided along North Cleveland Avenue at an approximate spacing of thirty-five feet on center. Diseased or dying trees shall be removed by the property owner and new trees must be replanted in accordance with this provision.
 - ii. All existing healthy and mature trees shall be preserved and incorporated into the site design for new off-street parking areas and building additions.
 - c. Additional landscaping and screening may be required with a special review or site development permit to maintain the character of the corridor and preserve privacy between residential and nonresidential uses.
4. Illumination: type 1 standard. Exterior illumination on the site shall meet the provisions for residential uses and residential parking areas contained in Chapter 3 of the Site Development Performance Standards and Guidelines.
5. Accessory dwelling units. Accessory dwelling units shall be permitted on the same lot with another single-family dwelling unit or a non-residential structure and shall comply with the provisions in Section 18.48.060, with the exception of Subsections A., D., H., and M. in said section.
6. Home Occupations: Home occupations shall comply with the provisions in Section 18.48 and shall be permitted one sign on North Cleveland Avenue, subject to the sign regulations in Section 18.50.090.

D. Redevelopment designation.

Properties within the North Cleveland sub-area, as identified and depicted in this section, shall be designated as a redevelopment area and shall be subject to Section 1.13.2 of the Larimer County Urban Area Street Standards.

Figure 18.16.110-1



North Cleveland Sub- Area

(Ord. 5520 § 5, 2010)

Chapter 18.20

R3 DISTRICT-DEVELOPING HIGH-DENSITY RESIDENTIAL DISTRICT

Sections:

18.20.010	Purpose.
18.20.015	Uses permitted by right.
18.20.020	Uses permitted by special review.
18.20.030	Lot areas.
18.20.040	Lot width.
18.20.050	Front yard.
18.20.060	Rear yard.
18.20.070	Side yard.
18.20.075	Height limitations.
18.20.080	Usable open space.
18.20.090	Off-street parking.
18.20.100	Site development plan review.
18.20.110	Special considerations.

18.20.010 Purpose.

The developing high-density residential zoning district provides standards for establishing and preserving mixed density residential neighborhoods, including a wide range of housing opportunities and complementary non-residential uses.

18.20.015 Uses permitted by right.

The following uses are permitted by right in a developing high-density residential (R3) district:

- A. One-family dwellings;
- B. Two-family dwellings;
- C. Multiple-family dwellings;
- D. Essential aboveground pad-mount transformers, electric and gas meters, telephone and electric junction and service locations, and underground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone, and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- E. Open land for the raising of crops, plants, and flowers;
- F. Accessory buildings and uses;
- G. Public schools;
- H. Combined use developments of permitted uses
- I. Place of worship or assembly. In addition to standard buffering requirements of the site development performance standards and guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially-zoned land by a six-foot high opaque wall, fence, or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the current planning manager; and
- J. Shelter for victims of domestic violence, subject to Section 18.52.070.

18.20.020 Uses permitted by special review.*

The following uses are permitted by special review in a R3 district:

- A. Preschool nurseries;
- B. Parks, recreation areas, and golf courses;

- C. Mobile home communities;
- D. Professional offices;
- E. Combined use developments which include any use permitted only by special review;
- F. Small animal hospitals and clinics;
- G. Private schools;
- H. Colleges and universities;
- I. Fraternity and sorority houses;
- J. Hospitals, nursing homes and sanitariums;
- K. Medical and dental clinics;
- L. Boarding and rooming houses;
- M. Neighborhood shopping center;
- N. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone, and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- O. Child care centers licensed according to the statutes of the state and in conformity with the minimum rules and regulations for child care centers adopted in accordance with such statutes;
- P. Governmental or semipublic uses;
- Q. Membership clubs;
- R. Group care facilities;
- S. Congregate care facility;
- T. Multiple-family dwellings for the elderly, where at least one occupant of each unit is elderly and such unit is not occupied by any person who is not elderly, unless such other occupant is the spouse of the elderly occupant;
- U. Receiving foster care homes for up to eight children licensed according to the statutes of the state; and
- V. Personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55.

*See Chapter 18.40.

18.20.030 Lot areas.

The minimum area of a lot in the R3 district shall be as follows:

A. Residential uses.

Single-family dwelling or two-family dwelling	7,000 square feet
Three or four-family dwelling	7,000 square feet plus 1,000 square feet per unit in excess of two units
More than four-family dwelling	9,000 square feet plus 2,000 square feet per dwelling unit in excess of four dwelling units
Multiple-family dwellings for the elderly	7,000 square feet

- B. Nonresidential uses. All other permitted uses in the R3 district shall have a lot area of not less than seven thousand square feet except for public utility and public service installations and facilities which shall have no required minimum area. For nonresidential uses, lot areas greater than the minimum lot area provided for in this section may be required for approval as a use by special review.

- C. The minimum area of a lot for a professional office and place of worship or assembly shall be at least three times the total floor area of the building.

18.20.040 Lot width.

The minimum width of a lot in the R3 district shall be sixty-five feet, except that there shall be no minimum lot width requirement for cul-de-sac lots. Cul-de-sac lots shall be designed so that driveways on adjacent lots will either be contiguous or separated by a minimum of twenty-two feet as measured along the face of curb. Where a lot is divided into three lots for the purpose of separate conveyance of each lot after a three-family dwelling has been constructed thereon, the minimum width of each parcel shall be thirty feet.

18.20.050 Front yard.

The minimum front yard in a R3 district, being the minimum distance of any dwelling from the front lot line, shall be twenty-five feet, except for a single-family, two-family or three-family dwelling, for which the minimum front yard shall be twenty feet.

18.20.060 Rear yard.

The minimum rear yard in a R3 district, being the minimum distance of any building from the rear lot line, shall be as follows:

- Principal building, fifteen feet;
- Detached accessory building, five feet.

18.20.070 Side yard.

The minimum side yard in a R3 district, being the minimum distance of any building from each side lot line, shall be one foot for each three feet or fraction thereof of building height, except that no side yard for a one-family or two-family dwelling shall be less than five feet, and for any other principal building, no side yard shall be less than ten feet. On corner lots the minimum side yard setback shall be no less than fifteen feet.

18.20.075 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54.

18.20.080 Usable open space.

The usable open space in a R3 district, exclusive of streets and off-street parking areas, shall be thirty percent of the total lot area.

18.20.090 Off-street parking.

The minimum off-street parking in the R3 district shall be as provided in Chapter 18.42.

18.20.100 Site development plan review.

Category 2 development shall be subject to the provisions of Chapters 18.39 and 18.46, and the site development performance standards and guidelines as provided in Chapter 18.47.

18.20.110 Special considerations.

The following special requirements shall apply for special review uses in the R3 district:

- A. Preschool nurseries.
 - 1. At least fifty square feet of floor area is set aside for school purposes for each child; and,
 - 2. At least two hundred square feet of outdoor fenced play area is available for each child.

- B. Noncommercial recreational uses, including swimming pools, community buildings, tennis courts and similar uses as a principal use.
 - 1. Outside lighting must not be located in such a manner or be of such intensity to be distracting to adjacent residential areas or street traffic.
 - 2. All buildings and active play areas shall be located at least twenty-five feet from all lot lines.

Chapter 18.24

BE DISTRICT - ESTABLISHED BUSINESS DISTRICT

Sections:

18.24.010	Purpose.
18.24.020	Uses permitted by right.
18.24.030	Uses permitted by special review.
18.24.040	BE zoned area on West Eisenhower Boulevard.
18.24.050	Proposals requiring approval by the planning commission.
18.24.060	Standards applying to entire BE zoning district.
18.24.070	Description of general, core, Fourth Street, and neighborhood transition character areas.
18.24.080	General and core character areas urban design standards.
18.24.090	Fourth Street character area urban design standards.
18.24.100	Neighborhood transition character area urban design standards.
18.24.110	Landscaping.

18.24.010 Purpose.

The established business zoning district is intended to promote the development of a pedestrian-oriented downtown mixed-use business district in which a variety of retail, commercial, office, civic, and residential uses are permitted. The district is also intended to:

- A. Encourage preservation of the architectural and historic character of the district;
- B. Foster redevelopment through the application of flexible development standards;
- C. Encourage a diverse mixture of land uses throughout the district including arts and technology related uses and mixed-use development;
- D. Encourage revitalization and redevelopment of the downtown in a manner that preserves and complements its existing unique character;
- E. Increase housing density to support vitality downtown;
- F. Increase employment density and opportunities;
- G. Encourage high-quality design that is context appropriate;
- H. Encourage redevelopment and increased density, while maintaining compatibility between the downtown BE district and surrounding residential neighborhoods;
- I. Support multi-modal transportation, including higher density surrounding transit nodes; and
- J. Allow for development to respond to infill conditions by utilizing type 2 standards.

18.24.020 Uses permitted by right.

The following uses are permitted by right in the BE district:

- A. Accessory buildings and uses;
- B. Accessory dwelling units;
- C. Art gallery, studio, and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40;
- D. Bar or tavern in general, core, and Fourth Street character areas;
- E. Bed and breakfast establishment;
- F. Boarding and rooming house;
- G. Clubs and lodges;
- H. Combined use (or mixed-use) development of permitted uses;

- I. Commercial day care center, licensed according to the statutes of the state;
- J. Community facility;
- K. Convention and conference center;
- L. Essential public utility uses, facilities, services, and structures (underground);
- M. Financial services;
- N. Food catering;
- O. Funeral home without crematorium;
- P. Garden supply center;
- Q. Government or semipublic use;
- R. Health care service facility;
- S. Hospital;
- T. Indoor entertainment facility and theater;
- U. Indoor recreation;
- V. Light industrial entirely within a building;
- W. Lodging establishment;
- X. Long term care facility;
- Y. Lumberyard in the general character area;
- Z. Medical, dental and professional clinic or office;
- AA. Micro-winery, micro-brewery, and micro-distillery;
- BB. Multiple-family dwelling for the elderly;
- CC. Multiple-family dwelling;
- DD. Nightclub in core and Fourth Street character areas;
- EE. Office, general administrative;
- FF. One-family (attached or detached) dwelling, including mixed-use dwellings;
- GG. Open-air farmers market;
- HH. Parking garage in the general and core character areas;
- II. Parks and recreation area;
- JJ. Parking lot in the general character area;
- KK. Personal service shop;
- LL. Place of worship or assembly;
- MM. Printing and newspaper office;
- NN. Public or private school;
- OO. Research laboratory;
- PP. Restaurant standard, indoor or outdoor;
- QQ. Retail laundry;
- RR. Retail store and wholesale store;
- SS. Shelters for victims of domestic violence, subject to Section 18.52.070;
- TT. Special trade contractor's shop (any outdoor storage shall be subject to special review as provided in Chapter 18.40.);
- UU. Veterinary clinic;
- VV. Two-family dwelling; and
- WW. Workshop and custom small industry uses if entirely enclosed within a building and provided there is no excessive odor, glare, smoke, heat, vibration, etc.. Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40.

18.24.030 Uses permitted by special review.

The following uses are permitted by special review subject to the provisions of Chapter 18.40:

- A. Attended recycling collection facility;

- B. Antennas, as defined in Section 18.55.020, located on an existing tower or structure as provided in Section 18.55.030 and Section 18.55.030 and meeting all other requirements of Chapter 18.55;
- C. Bar or tavern in the neighborhood transition character area;
- D. Combined-use (mixed-use) development containing one or more special review use(s);
- E. Congregate care facility;
- F. Contractor's storage yard in the general character area;
- G. Domestic animal day care facility;
- H. Essential public utility uses, facilities, services, and structures (above ground);
- I. Gas station with or without convenience goods or other services in the general character area subject to Section 18.52.060 and Section 18.50.135;
- J. Greenhouse;
- K. Group care facility;
- L. Nightclub in the general and neighborhood transition character areas;
- M. Off-track betting facility;
- N. Outdoor recreation facility;
- O. Outdoor storage as an accessory use;
- P. Parking garage in the Fourth Street and neighborhood transition character areas;
- Q. Parking lot in the core and neighborhood transition character areas;
- R. Personal wireless service facility as defined in Section 18.55.020, located on a new structure, meeting all requirements of Chapter 18.55;
- S. Unattended recycling collection facility;
- T. Vehicle minor and major repair, servicing and maintenance in the general and core character areas;
- U. Vehicle rental, cars, light trucks and light equipment in the general and core character areas;
- V. Vehicle sales and leasing of cars and light trucks in the general and core character areas; and
- W. Warehouse and distribution uses enclosed within a building.

18.24.040 BE zoned area on West Eisenhower Boulevard.

The area zoned BE and shown in Figure 18.24.040-1 shall not be governed by the allowances, standards and provisions of this chapter, with the exception that the uses allowed in this area shall be subject to Sections 18.24.020 and 18.24.030. For the purposes of determining allowed uses, this area shall be considered to be in the general character area (see section 18.24.070 for a discussion of character areas). All development in this area shall otherwise comply with Chapters 18.28, 18.53, 18.42, 18.50, 18.54, and all other applicable City Code regulations.

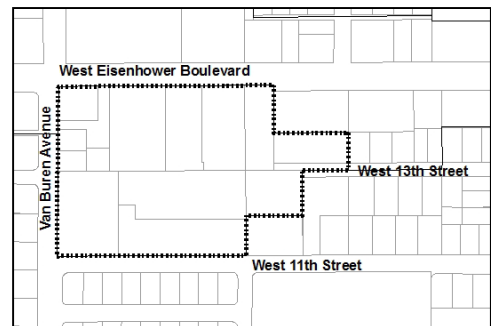


Figure 18.24.040-1

18.24.050 Proposals requiring approval by the planning commission.

- A. Applications for development and redevelopment of structures, buildings or additions that meet the criteria specified in one or more of the numbered subsections below require site development plan approval by the planning commission at a public hearing noticed in accordance with Chapter 18.05. Uses listed in Section 18.24.030 as requiring special review and meeting the thresholds listed in one or more of the numbered subsections below shall require a noticed neighborhood meeting and approval by the planning commission at a noticed public hearing in lieu of the special review process; notice distance shall be as specified for special review in Chapter 18.05.

1. Any allowed uses located in the general, core or Fourth Street character areas containing more than 25,000 square feet of gross floor area construction.
 2. Any allowed uses located in the neighborhood transition character area containing more than 10,000 square feet for gross floor area construction.
 3. Any building or structure height above seventy (70) feet, exclusive of church spires, chimneys, ventilators, pipes, elevator shafts, or similar appurtenances.
- B. In approving a site development plan application, the planning commission must determine that the following findings have been met:
1. The proposed development complies with the standards of this chapter and any other applicable provisions of the Municipal Code.
 2. The proposed development is consistent with the goals of the document, Destination Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation Strategy, as updated or as provided in the most current downtown strategic planning policy document adopted by the City Council.
 3. The proposed development is compatible with surrounding properties when considering the allowances for development intensity specified in this chapter and the urban orientation of the downtown which is characterized by a diversity of uses and building types.
 4. Adequate infrastructure is available to serve the proposed development.
- C. Planning commission decisions may be appealed in accordance with chapter 18.80 of this title.

18.24.060 Standards applying to entire BE zoning district.

The following standards shall apply to all development within the BE district, except for that area described in Section 18.24.040 and depicted in Figure 18.24.040-1. The building envelopes depicted in this section are not intended to depict actual building forms. Building heights shall be defined and measured pursuant to Chapter 18.04.113.2. Therefore, portions of a building including pitched or gabled roofs may extend outside of the building envelopes as depicted in this section.

- A. Building height: type 1 standards.
1. Building height for all structures, including primary and accessory uses, shall not exceed the maximum heights set forth in Figures 18.24.060-1, 18.24.060-2, and 18.24.060-3.

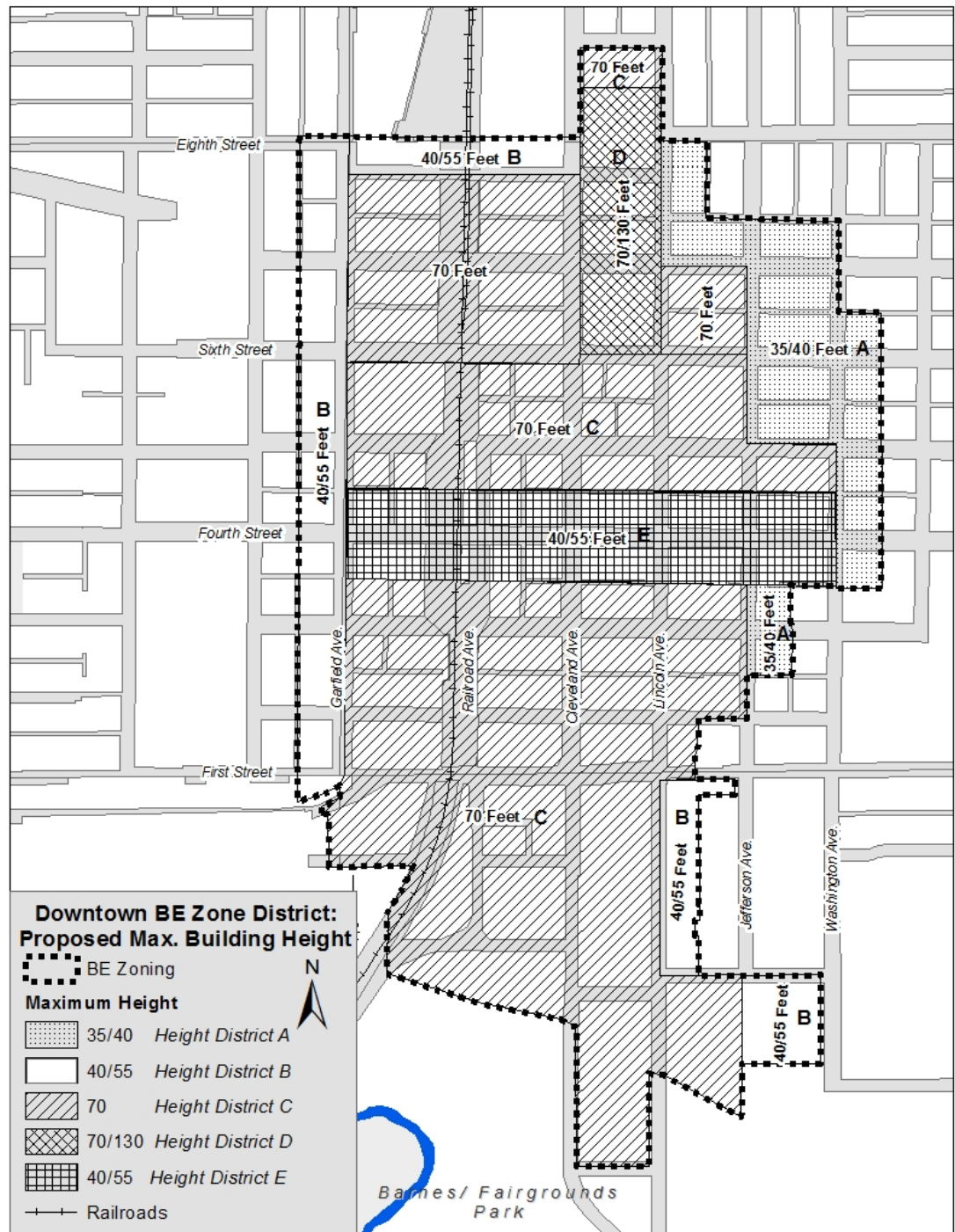


Figure 18.24.060-1: Downtown Area Height Limits



Figure 18.24.060-2
BE Eighth Street and Colorado Avenue Area
Height Limits

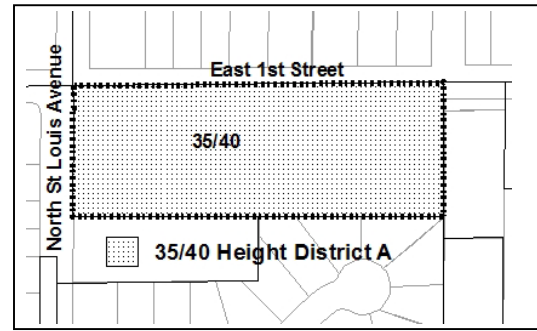


Figure 18.24.060-3
BE East First Street Area
Height Limits

2. Where Figures 18.24.060-1, 18.24.060-2, and 18.24.060-3 indicate two numbers, the lower of the two numbers shall be considered the standard allowable height.
3. Building heights up to the higher of the two numbers in Figures 18.24.060-1, 18.24.060-2, and 18.24.060-3 may be permitted as stipulated in the following height provisions:
 - a. Height district A - 35/40 residential buffer: These height limits are intended to maintain the existing character of the area and ensure compatibility with adjacent uses and residential zoning districts. Building heights in height district A are as specified below:
 - i. Buildings located in height district A shall have a standard allowable height of thirty-five feet.
 - ii. Buildings on property located adjacent to Colorado Avenue, Lincoln Avenue, Jefferson Avenue, Washington Avenue, First Street or West Eighth Street may have a maximum height of forty feet.
 - b. Height district B - 40/55 residential buffer: These height limits are intended to protect the character of adjacent residential neighborhoods. The maximum building height of fifty-five feet is allowed except as specified below:
 - i. Structures on lots located directly adjacent to residential zoning districts or across public alleys from residential zoning districts shall be limited to forty feet in height within sixty-five feet of the property line of the adjacent residentially zoned lot. This sixty-five foot setback shall be measured from the property line of the adjoining residentially zoned lot and shall include any land within an alley right-of-way (see Figure 18.24.060-4).
 - ii. This provision shall not apply to lots separated from residential zone district by a public street other than an alley.

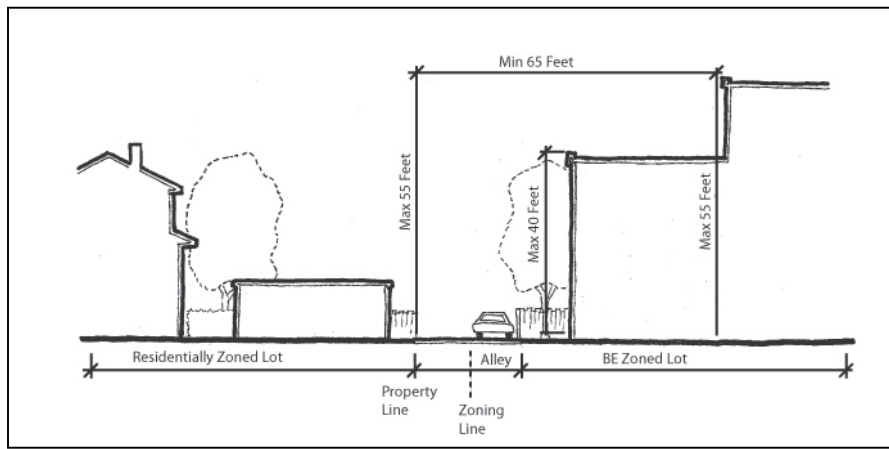


Figure 18.24.060-4
Setback from residential zone districts

- c. Height district D - 70/130 high rise zone: These height limits are intended to allow for the construction of tall buildings subject to standards designed to mitigate potential negative effects on adjacent properties. Buildings over seventy feet in height must meet the following massing standards:

- i. Portions of a building greater than seventy feet in height shall be set back from public streets, not including alleys, a minimum of twenty-five percent of the total building height. See Figure 18.24.060-5.

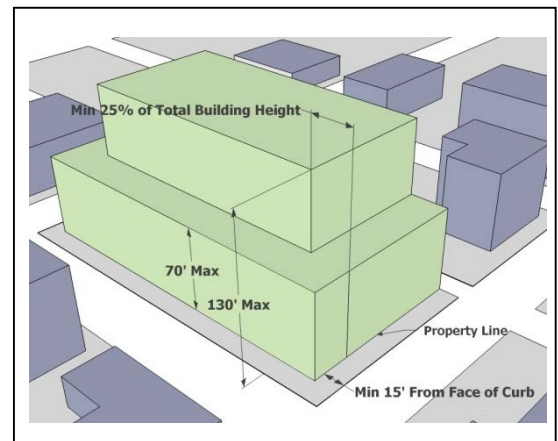


Figure 18.24.060-5.

- d. Height district E – 40/55 Fourth Street character area: These height limits are intended to maintain a historic and pedestrian scale, and protect solar access to the north sidewalk of Fourth Street for the majority of the year. Building heights in height district E are as specified below:

- i. Facades fronting on Fourth Street or intersecting public street rights-of-way shall have a standard allowable height of forty feet.
- ii. Structures may be allowed up to fifty-five feet in height provided those portions of buildings exceeding forty feet in height shall be stepped back at an angle of forty degrees from horizontal. Portions of buildings greater than forty feet in height shall be stepped back a minimum of five feet from the public right of way. See Figure 18.24.060-6.
- iii. Only those stories above the second story may be stepped back.

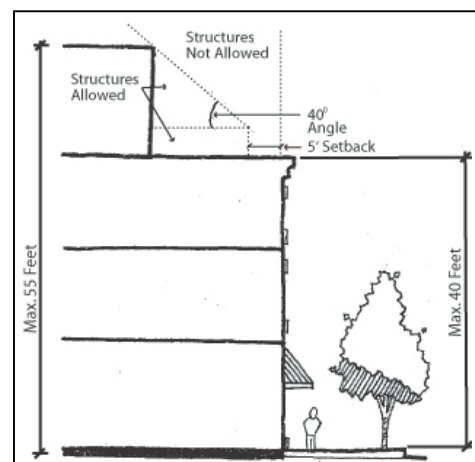


Figure 18.24.060-6

4. Building height adjacent to one-family residential uses: The maximum building height on properties located adjacent to a one-family residential use shall be limited to the height restrictions indicated in Figures 18.24.060-1, 18.24.060-2, and 18.24.060-3; except that on the lot line adjacent to the one-family residential use, portions of the structure greater than forty feet in height shall be stepped back at an angle of forty degrees from horizontal as depicted in Figure 18.24.060-7.

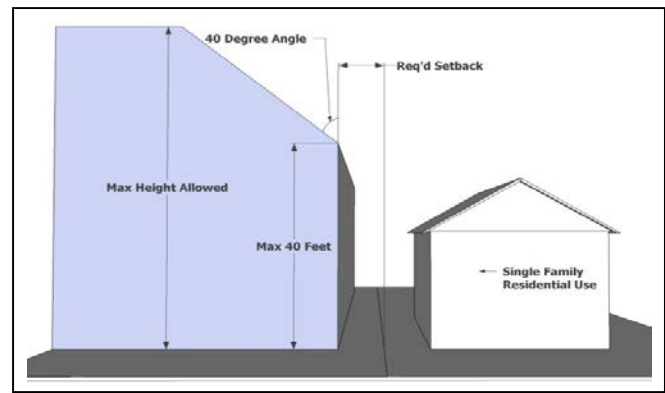


Figure 18.24.060-7

- B. Off street parking: type 2 standards.
 1. Off-street parking shall be provided as set forth in Chapter 18.42.030 for all uses outside the boundaries of General Improvement District #1 with boundaries as established by council, and for residential uses that are not part of a mixed-use development.
 2. No off-street parking shall be required for non-residential or mixed use development located in General Improvement District #1.
- C. Parking garages: type 2 standards.
 1. Exterior building elevations shall be compatible with the architecture found in the BE district in terms of style, mass, material, height, and other exterior elements.
 2. Parking garages shall include a minimum of three of the following elements on any facade facing a public street or plaza space: (i) window and door openings comprising a minimum of twenty-five percent of the ground floor facade; (ii) awnings; (iii) sill details; (iv) columns; (v) recessed horizontal panels or similar features to encourage pedestrian activity at the street level.
 3. Along primary pedestrian streets, as defined in Section 18.24.080C., commercial uses shall be provided along the ground level, where feasible, to create pedestrian activity.
 4. Vehicle entrances shall be located to minimize pedestrian/auto conflicts.
- D. Signs: type 1 standards. All signs shall comply with Chapter 18.50.
- E. Illumination: type 2 standards. Section 3.09 of the Site Development Performance Standards and Guidelines shall apply to site lighting with the exception that unshielded, decorative lighting shall be permitted, provided the lights are not installed at a height exceeding twelve feet and the light intensity does not cause glare as defined in said section.
- F. Outdoor eating area: type 1 standard. Restaurants may operate outdoor eating areas on public sidewalks, rooftops and balconies and in courtyards or other similar locations, provided that pedestrian circulation and access to building entrances is not impeded, and adequate clear space within the sidewalk is maintained to allow for pedestrian circulation and to meet any applicable City Codes and regulations as well as the Americans with Disabilities Act, as appropriate, and such outdoor eating areas comply with the following type 2 standards:
 1. Planters, fences, or other removable enclosures shall be used to define the limits of the outdoor eating area.
 2. Adequate refuse containers shall be provided within the outdoor eating area.

3. Tables, chairs, planters, extended awnings, canopies, umbrellas, trash receptacles and other street furniture shall be compatible with the architectural character of the building and surrounding area in terms of style, color, and materials.
 4. The area within and immediately adjacent to the outdoor eating area shall be maintained in a clean and well-kept condition.
- G. Outdoor storage: type 1 standard. The storage area shall be screened from view from public rights-of-way and adjacent properties and shall comply with the following type 2 standards:
1. Such storage shall not be located within any required front yard.
 2. The preferred method of screening is a solid masonry wall no less than six feet in height. A decorative fence, landscape screen, berm, or any combination thereof, may be approved by the current planning manager as a screening substitution provided it meets the intent of this section. Chain link fencing with slats shall not be allowed as a permitted screening alternative. Stored material shall not exceed the height of the screening wall, fence, or berm.
 3. Landscaping may be required to supplement the fence or wall where sufficient space is available to provide a planting area without unreasonably restricting space available for storage and where landscape as screening is more appropriate.
- H. Outdoor display: type 2 standards. The limited outdoor display of merchandise for retail sale is allowed, provided such display is incidental to the primary retail use or activity within an enclosed building. Merchandise on display shall be of the same type or related to merchandise for sale within the primary retail building. Temporary displays, erected for not more than four days in duration, may be allowed within parking areas or buffer yards for special events, such as a farmers market, or a weekend or holiday sales event.
- I. Alley levels of service standards: Where deemed appropriate, the city engineer may grant a variance to the adequate community facility ordinance for alley levels of service in accordance with Section 1.9.4 of the Larimer County Urban Area Street Standards.
- J. Civic structures: The historic pattern seen in traditional downtown areas is that civic structures such as churches and theaters were constructed in a manner that differentiated them from commercial or residential structures and announced their special functions to citizens. Typically, these differences were seen in aspects such as setback, materials, and openings such as windows and doors. Therefore, structures designed to be used either wholly or partially for civic use shall not be required to adhere to the standards included in this chapter regarding, materials, windows and openings. Additionally, civic structures shall not have any maximum setbacks.

18.24.070 Description of general, core, Fourth Street, and neighborhood transition character areas.

Character areas are established as depicted in Figure 18.24.070-1 and Figure 18.24.070-2.

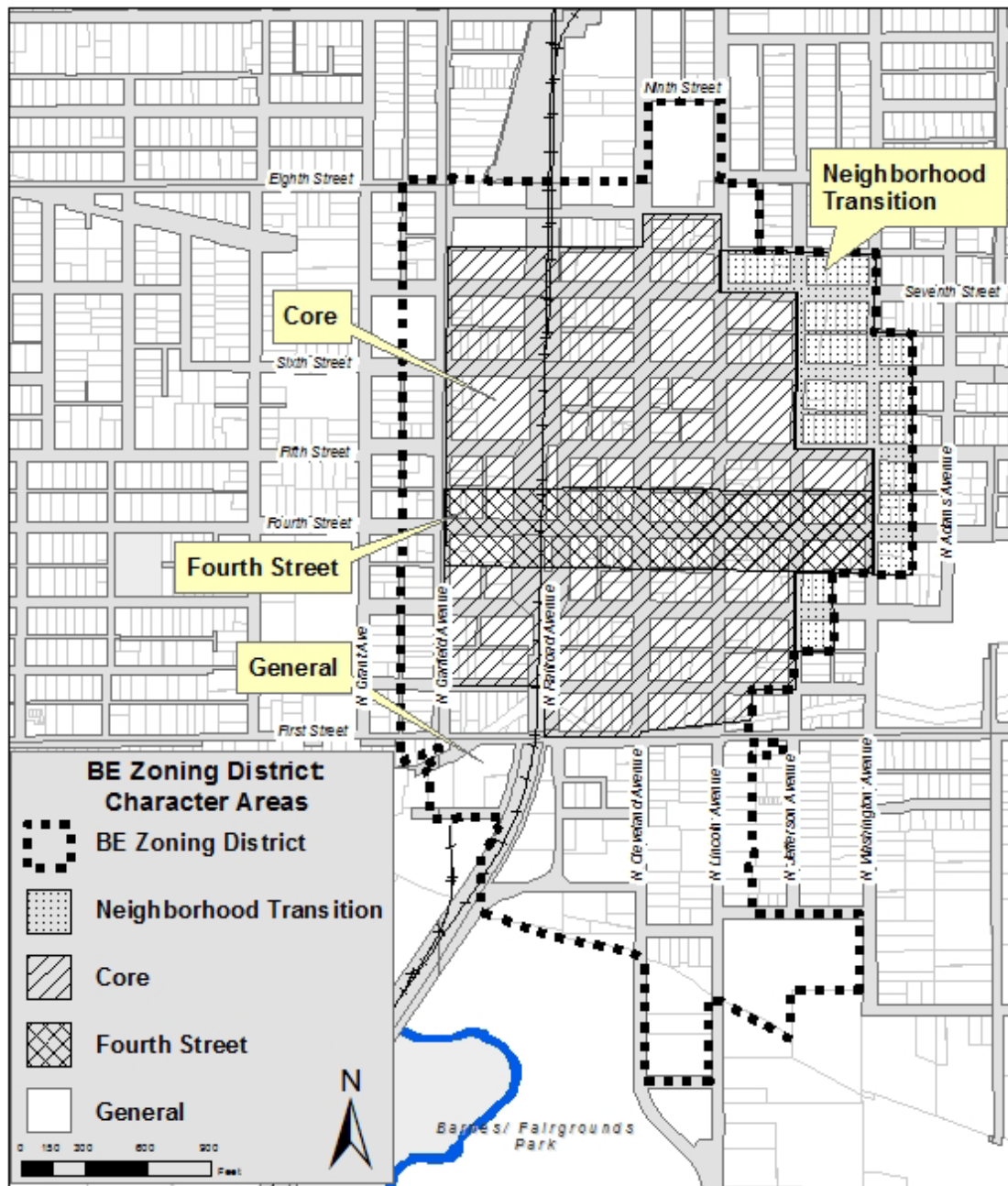


Figure 18.24.070-1: BE district, downtown character areas

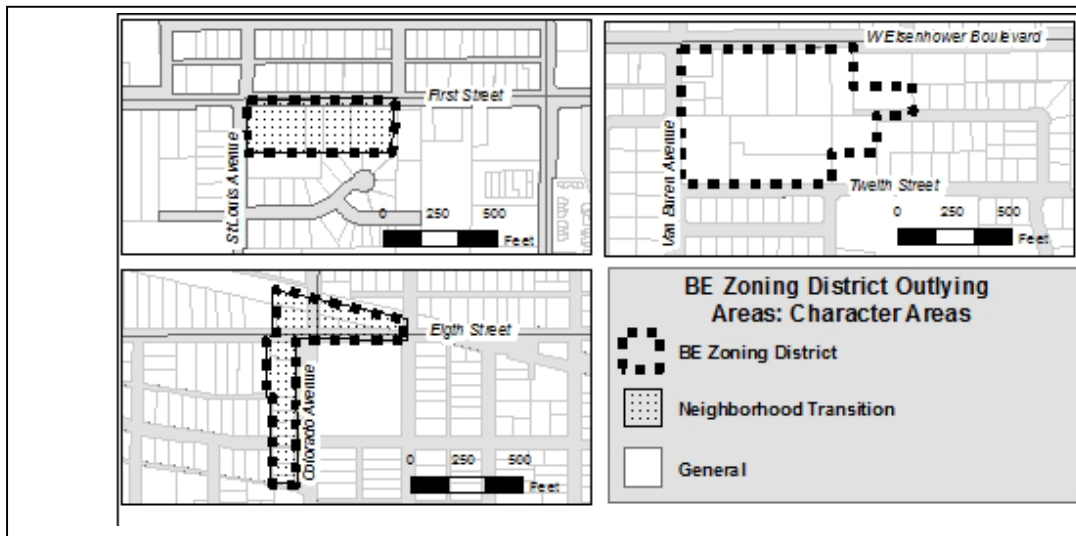


Figure 18.24.070-2: BE district, outlying areas

Specific development standards are created for each character area. Development and redevelopment within each character area shall meet the standards set forth for that respective character area, as well as the standards set forth in Section 18.24.060.

18.24.080 General and core character areas urban design standards.

- A. Intent: The intent of these standards is to permit development and redevelopment in a manner that is consistent with the established character of the downtown BE district and the goals of promoting density of employment and residential uses through quality infill and redevelopment with a strong pedestrian orientation. These standards are intended to enhance the livability of residential areas, improve the appearance and attractiveness of land and buildings to customers, and enhance compatibility with adjacent uses.
- B. Applicability: The standards listed in this Section 18.24.080 are type 2 standards. These standards shall apply within the general and core character areas as depicted in Figures 18.24.070-1 and 18.24.070-2.
 1. New construction: These standards shall apply to new construction of buildings and structures, including additions to existing structures. These standards shall not apply to the existing portions of a structure to which an addition is being constructed, if there are no modifications proposed to the existing portion of the structure.
 2. Facade renovation: These standards shall apply to facade renovations. Standards shall apply only to the portion(s) of elevation(s) which are being renovated. (For example, an applicant proposing a renovation of the ground floor facade on one elevation would not be required to alter upper stories on that elevation, nor to alter other elevations.)
 3. Exemption for historic buildings: These standards shall not apply to designated historic structures altered or restored in compliance with a building alteration certificate authorized pursuant to Chapter 15.56c.
 4. These standards shall apply in lieu of Chapter 18.53.
- C. Primary pedestrian streets:
 1. Intent: The intent of this section is to ensure that primary pedestrian routes remain inviting to pedestrians; to maintain the established commercial architectural character along certain streets within the downtown; to maximize commercial activity by not separating commercial areas with large areas of non-commercial facades; to facilitate comfortable pedestrian circulation between

destinations; and to facilitate pedestrian circulation between parking areas and destinations to support “parking once” and walking to multiple destinations. Primary pedestrian streets are hereby established as shown in Figure 18.24.080-1.

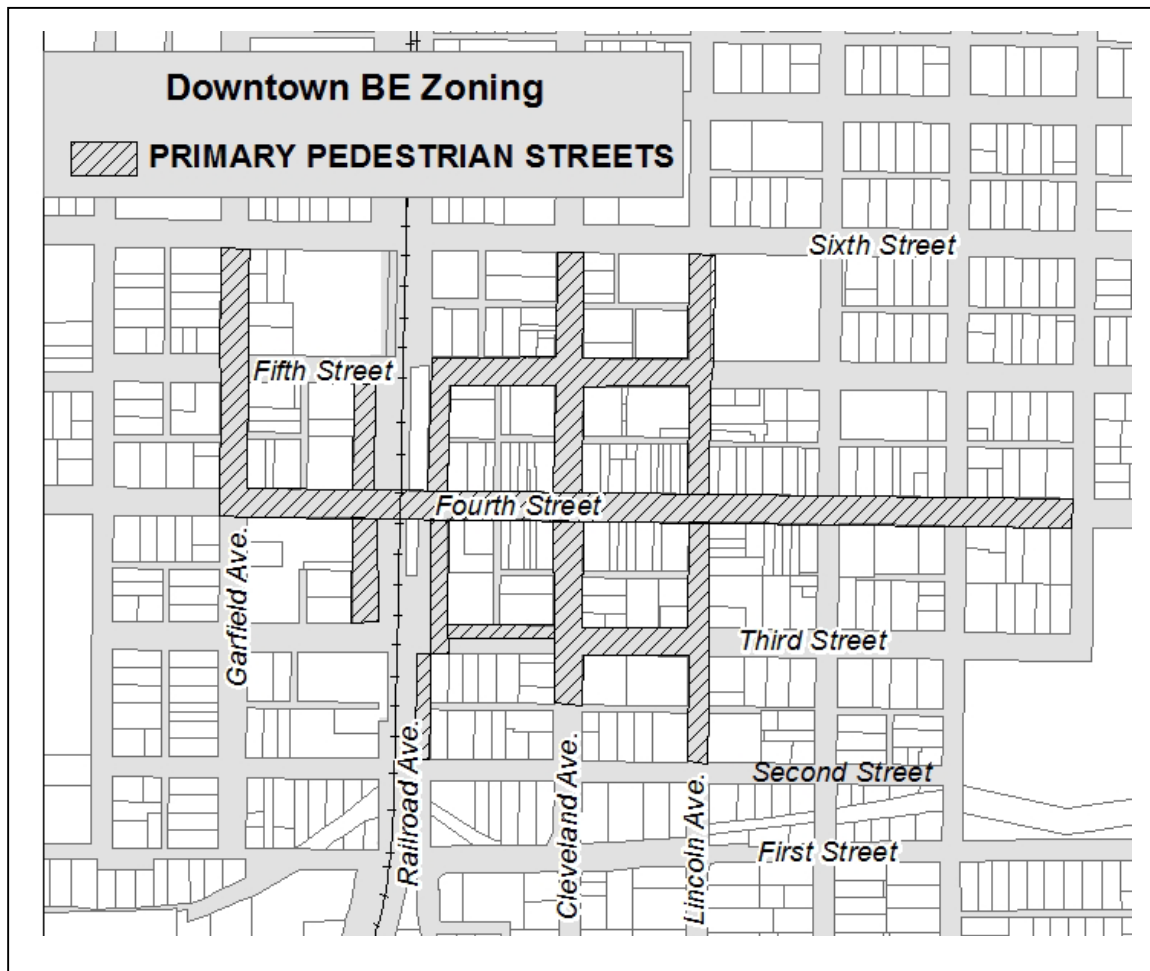


Figure 18.24.080-1: primary pedestrian streets

- D. Primary and secondary elevations and lot frontage:
 - 1. For buildings facing onto a public street right-of-way, the ground floor elevation facing onto said right-of-way shall be considered the primary elevation and the lot frontage on said right-of-way shall be considered the primary lot frontage.
 - a. For a building on a lot which is located on a street corner, one ground floor elevation and one lot frontage shall be determined to be the primary elevation and the primary lot frontage. If one of these public streets is designated as a primary pedestrian street per this section, then the ground floor elevation and lot frontage facing this primary pedestrian street shall be the primary elevation and lot frontage.
 - b. If the lot fronts onto two or more streets which are primary pedestrian streets then the application shall designate one ground floor elevation and lot frontage as the primary elevation and primary lot frontage.
- E. All other ground floor elevations and lot frontages are considered secondary elevations and lot frontages.

F. Dimensional standards: The standards set forth in this section and in Table 18.24.080-1 shall apply in the general and core character areas.

1. Dimensional standards.

Table 18.24.080-1

Dimensional and Intensity Standards for General and Core Character Areas Only								
Use	Minimum yard requirements^{1,3}				Open space, and lot size			
	Front	Side, Lot line 4	Side, right- of-way 6	Rear, lot line	Rear Right- of-way 6	Useable Open Space	Min Lot Size	Min Lot Width
One-family detached	10	5	5	10	5	None	4,000	35
One-family attached⁴	10	5	0	10	5	None	1,600	17
Two-family	10	5	0	10	5	None	4,000	40
Accessory Bldg	25	5	0	5	5	None	N/A	N/A
Multi-family	10	5	0	10	0	10% Gen	5,000	50
Non-res & mixed	0	5-Gen 0-Core	0	10	0	7.5% Gen 0% Core	None	None
Off-street parking lots and structures²	8	8	8	0	5	N/A	N/A	N/A
Notes: 1. Setbacks for garage doors fronting public alleys shall be either five (5) feet or less; or eighteen (18) feet or more. Setbacks for garage doors fronting a public street shall be at least twenty (20) feet. 2. Setbacks may be reduced for surface parking when a decorative masonry wall at least three (3) feet in height is provided along public rights-of-way at least six (6) feet in height when adjacent to any residential use. 3. Structures fifty (50) feet in height or taller shall be set back a minimum fifteen (15) feet from the face of the curb. 4. Attached one-family dwelling units shall be allowed to have a zero (0) foot sideyard setback where party walls are used. 5. See Section 18.24.080.E.2.c for setbacks from public streets in the core character area. 6. Parking setback from side or rear lots adjacent to an alley is zero (0) feet.								

- a. Setbacks adjacent to one-family residential uses: Setbacks on lot lines adjacent to one-family residential uses or residential zoning shall be one foot for each five feet of

building height with a minimum setback of five feet or the required setback listed in Table 18.24.080-1, whichever is greater.

2. Core character area supplementary dimensional standards.
 - a. Intent: Dimensional standards within the core character area are intended to preserve and enhance the unique character of the area and encourage the renovation of existing buildings in a manner that preserves that character. The core character area has a strong pedestrian orientation and is characterized by historic buildings with zero or minimal setbacks.
 - b. Applicability: These standards shall apply to any development located within the core character area as defined in Section 18.24.070 and meeting the applicability standards set forth in Section 18.24.080B.
 - c. Setbacks: Buildings shall be located as near as possible to the edge of the public sidewalk to enhance pedestrian access and continue the existing pattern of development which is characterized by buildings located in close proximity to the sidewalk. The minimum distance between a building facade and face of curb shall be fifteen feet on primary pedestrian streets as defined in Figure 18.24.080-1, and twelve feet on all other streets except as stated below. Building facades shall be placed at these minimum distances, or up to a maximum of twenty feet from the face of curb, for a minimum of seventy-five percent of the primary lot frontage and fifty percent of the secondary lot frontage. Pedestrian easements shall be dedicated in that area between the portion of the building facade meeting the fifty percent to seventy-five percent requirement outlined above and the property line. This area shall be paved so as to function as part of the public sidewalk. See Figure 18.24.080-2.
 - i. Table 18.24.080-2 contains minimum distance from building facade to face of curb that must be met for the required fifty percent to seventy-five percent of lot frontage per Section 18.24.080E.2.c. for segments of Third, Fifth, and Sixth Streets between Railroad Avenue and Lincoln Avenue. These requirements are pursuant to the Destination Downtown: HIP Streets Master Plan.

Table 18.24.080-2

Minimum distances between facade and face of curb between Railroad Avenue and Lincoln Avenue	
Road Segment	Minimum Distance (in feet)
Third Street	
North Side	16.5
South Side	17
Fifth Street	
North Side	10
South Side	15
Sixth Street	
North Side	16.5
South Side	14.5

- ii. The following may also be used to satisfy the above fifty percent and seventy-five percent frontage requirements.
 - 1) For buildings with ground floor residential uses; a setback of up to thirty- five feet from the face of curb, on that portion of the building facade containing the ground

floor residential use, provided that the area greater than a minimum of fifteen feet from the face of curb consists of landscape or quality hardscape.

- 2) For buildings or developments with frontage along more than one street a public open space such as a plaza on a maximum of one of a building's street frontages.
- 3) An arcade at least six feet deep.
- 4) A setback of up to twenty-five feet from the face of curb to allow for outdoor dining for up to a maximum of twenty-five percent of the total lot frontage.

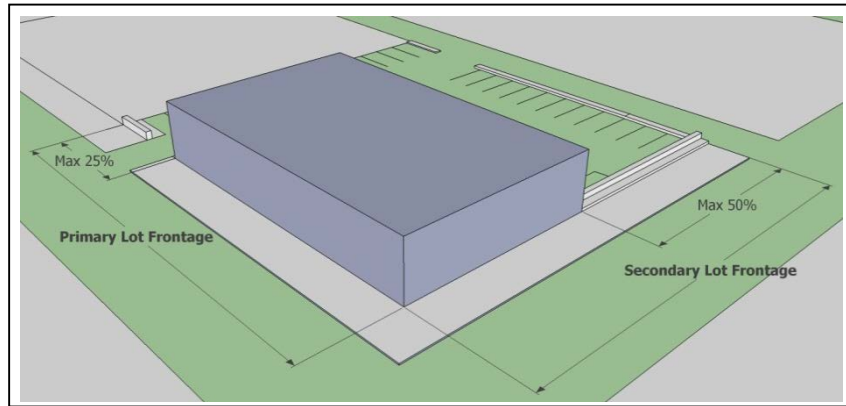


Figure 18.24.080-2

G. Architectural features: Traditional downtown buildings achieve quality appearance through the use of quality materials and proportions and architectural rhythm. Articulation of downtown buildings is often more subtle than articulation of typical suburban buildings.

1. Buildings shall incorporate a combination of the following features: columns, pilasters, window dormers, bay windows, corbels, balconies, porches, or other similar architectural features to add visual interest and diversity.
2. All elevations facing a public street right-of-way, public plaza or pedestrian space, or public parking lot shall contain a cornice parapet, capstone finish, eaves projecting at least twelve inches, or other roof features.
3. All rooftop mechanical equipment shall be screened from view from public rights-of-way with screening materials comparable to the color, tone and texture of materials used on the building.
4. Each building fronting a public street shall have at least one primary entrance that shall be clearly defined and recessed or framed by elements such as awnings, porticos or other architectural features. Buildings fronting onto a primary pedestrian street shall place the primary entrance on the primary pedestrian street frontage.
5. Windows and doors shall comprise a minimum percentage of facades facing public streets rights-of-way, as set forth in Table 18.24.080-3.
6. No wall facing a plaza or public street shall extend more than twenty horizontal linear feet on the ground floor without a window or other opening.
7. Facades greater than seventy-five feet in length shall contain recesses or projections of a minimum depth of three percent of the facade length extending for a minimum of twenty percent of the length of the facade.
8. Facades visible from a public street, public plaza or public pedestrian space shall be finished with quality materials that reinforce the pedestrian character of the downtown. Minimum window and door openings shall be limited to the percentages indicated in Table 18.24.080-3.

- a. At least thirty percent of facades shall consist of brick or stone or finish materials consistent with the historic character of the area. The area of windows and doors shall be excluded from the external wall area for this calculation.
 - b. The remainder of the facade not consisting of windows and doors shall consist of quality materials such as: brick, textured and/or ground face concrete block, textured architectural precast panels, masonry, natural and synthetic stone, exterior insulation finishing systems, stucco, and similar high quality materials as approved by the current planning manager.
 - c. Wood and metal are acceptable accent materials but should not account for more than twenty percent of any one facade.
 - d. No wall facing a plaza or public street shall extend more than twenty-five horizontal linear feet without a window or other opening.
9. Historic compatibility: Facades in the core character area are not required to mimic historical architecture. However, certain areas of the core character area contain established patterns of historic building facades. Fifth Street between Railroad Avenue and Cleveland Avenue; or Lincoln Avenue between Fourth Street and Sixth Street are examples of this pattern. Where the surrounding block contains a pattern of historic buildings, new buildings should be designed to be compatible in scale, rhythm, materials, and mass with the historic buildings.

Table 18.24.080-3

Minimum Window and Door Percentage General and Core Character Areas				
Character Area	General		Core	
	Street Type		Street Type	
Facade Type / Location	Primary Pedestrian Street	Non-Primary Pedestrian Street	Primary Pedestrian Street	Non-Primary Pedestrian Street
Primary, Ground Floor	30%	30%	40%	40%
Secondary, Ground Floor	30%	20%	40%	30%
Residential, Ground Floor	20%	20%	20%	20%
Upper Floors, All Uses ¹	15%	15%	15%	15%
1. Upper floor surface area shall be measured excluding cornice or other roof features.				

- H. Open space: Where sufficient site area is available, common open spaces shall be provided in the form of central courts and squares to provide a focal point for activity, instead of perimeter buffer yards.
- I. Parking: The intent of this section is to reduce the impact of parking lots on the pedestrian character of the downtown, by encouraging parking to be located to the rear or sides of buildings.
 1. Vehicular access to parking lots shall be from alleys unless determined to be infeasible by the current planning manager. In those cases, it is preferable to have vehicle ingress from a public street and vehicle egress into the adjacent alley. The third preferable option is ingress and egress from the street. (See options A, B, and C in Figure 18.24.080-3).
 2. Parking or drive aisles shall not be located between the primary elevation and the public right-of-way.

3. Parking lot frontage may not comprise more than fifty percent of any secondary lot frontage facing a public street right-of-way. This standard does not apply to lot frontage on an alley or on a lane that functions as an alley (see Figure 18.24.080-2).
4. Parking lot frontage may not comprise more than twenty-five percent of the primary lot frontage, with the exception that a drive aisle and a single bay of parking perpendicular to the primary lot frontage is permitted where alley access is not utilized.
5. Parking lots shall be appropriately screened per Section 3.04 of the Site Development Performance Standards and Guidelines, except that screening shall be provided for the entire length of the parking lot, exclusive of the driveway.
6. Screening is not required adjacent to public alleys.

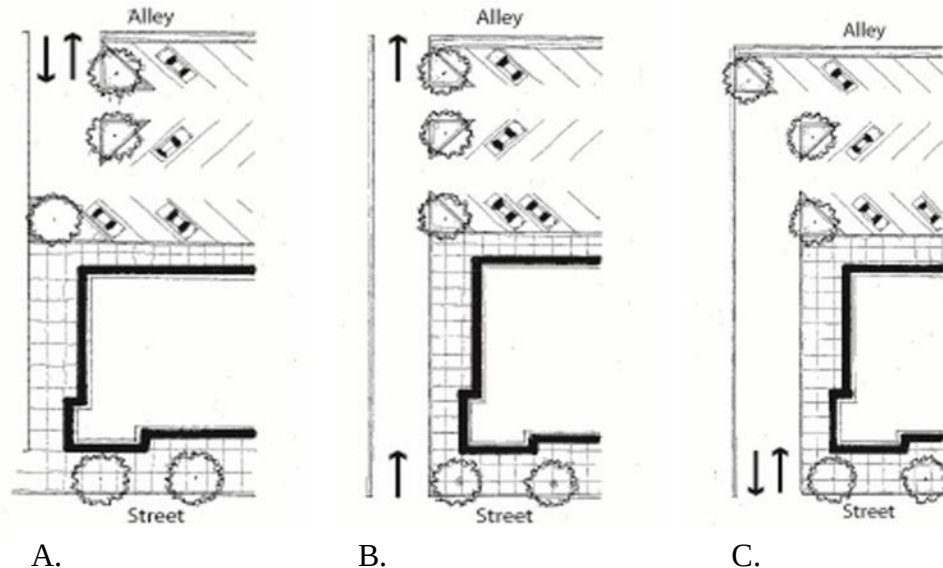


Figure 18.24.080-3

- J. Pedestrian facilities. Pedestrian sidewalks at least five feet in width shall be provided along all internal drives. Sidewalks shall provide access to adjacent roads, public spaces, parks and adjacent developments, when feasible. Front ground floor entrances to residential units shall be connected by a porch and/or walkway to the public sidewalk.
- K. Other site amenities. Site amenities shall include ornamental street lighting, fencing, planters, benches, and feature landscaping at entries and within central open spaces consistent with the historic character of the downtown.
- L. Infill streets and drives. Vehicular lane widths shall be kept to the minimum required width to reduce speeds and facilitate pedestrian activity.

18.24.090 Fourth Street character area urban design standards.

- A. Intent. The intent of these standards is to preserve and enhance the historic character of the Fourth Street character area; to enhance the character of the retail district; and to maintain and enhance a pedestrian-friendly environment.
- B. Applicability.
 1. Fourth Street character area. These standards shall be applicable to properties within the Fourth Street character area as identified in Figure 18.24.070-1.
 2. The standards in this Section 18.24.090 are type 2 standards.
 3. New construction. These standards shall apply to new construction of buildings and structures.

4. Facade renovation: Standards shall apply only to the portion(s) of elevation(s) which are being renovated. The current planning manager may waive the requirement for a facade being renovated to install a storefront as defined in Section 18.24.090F. under the following conditions:
 - i. the structure was not originally constructed with a storefront or had not been renovated to have a storefront in the past;
 - ii. the installation of a storefront is not practicable based on the cost of such renovation being greater than fifty percent of the total building permit valuation for the work being performed on the structure; or
 - iii. the proposed renovation is not materially changing the form of the facade.
 5. No change in existing setbacks shall be required under this section during a facade renovation.
 6. Lots located in the Fourth Street character area, but with no lot line adjacent to Fourth Street, shall comply with standards of Section 18.24.080E.2.
- C. Front, side, and rear setbacks in the Fourth Street character area shall be as shown in Table 18.24.090-1.

Table 18.24.090-1

Fourth Street Character Area Setbacks	
Fourth Street Lot Line ^{1, 3}	0' Maximum
Rear Lot Line ²	0' Minimum
Side Lot Line	0' Minimum
Notes: 1. Except for minor recesses and projections and recessed doorways 2. Garage doors shall be set back five feet or less or eighteen feet or more from alley rights of way. 3. Greater setbacks may be allowed in order to allow for the plaza spaces shown in the Destination Downtown HIP Streets Master Plan	

- D. Building unit: These provisions are intended to result in building forms that are compatible with the historic pattern of twenty-five foot wide lots and storefronts found in the Fourth Street character area (see Figure 18.24.090-1).
1. New buildings constructed along Fourth Street shall, at the ground floor, be segmented into storefronts of between twenty feet and fifty feet in width.
 2. Each storefront shall have a separate entrance.
 3. Each storefront shall be separated from the adjoining storefront by a solid vertical element or feature a minimum of eight inches wide.
 4. Buildings having Fourth Street frontage greater than seventy-five feet shall be designed so as to appear to be multiple buildings. Changes in facade material, window design, facade height, cornice, or decorative details are examples of techniques that may be used.

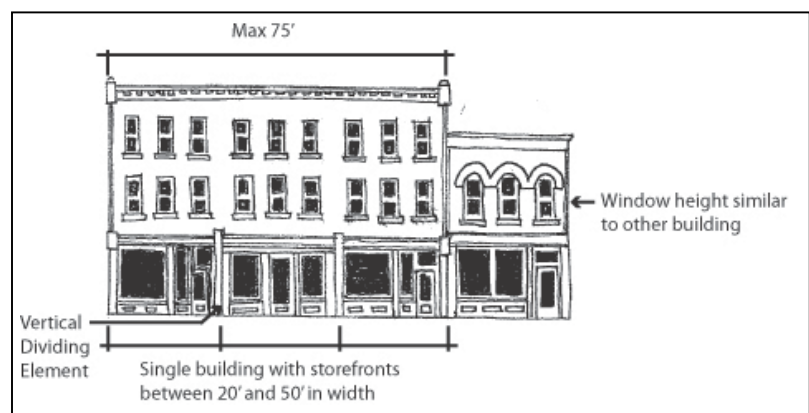


Figure 18.24.090-1

There should be some slight variation in alignments between the facade elements such as window heights.

- E. Corner buildings. These provisions are intended to ensure that buildings that front onto two streets continue a pedestrian character on both streets through window and door openings, a characteristic common to the Fourth Street character area. This enhances pedestrian comfort and the walkability of the downtown (see Figures 18.24.190-2 and Figure 18.24.090-3).
1. Corner buildings are those that have a frontage on Fourth Street and frontage on an intersecting street including Garfield Avenue, Railroad Avenue, Cleveland Avenue, Lincoln Avenue, Jefferson Avenue, or Washington Avenue.
 2. For lots located at the corner of Fourth Street and any intersecting street, storefronts shall be designed to appear to wrap around corners by including a corner entrance or large pane display window at least ten feet in width along the side street facade.
 3. Any corner building having more than seventy-five feet of frontage on an intersecting street, shall have at least one storefront at ground level, as described in Section 18.24.090F.3., facing the intersecting street and measuring at least twenty-five feet in width.

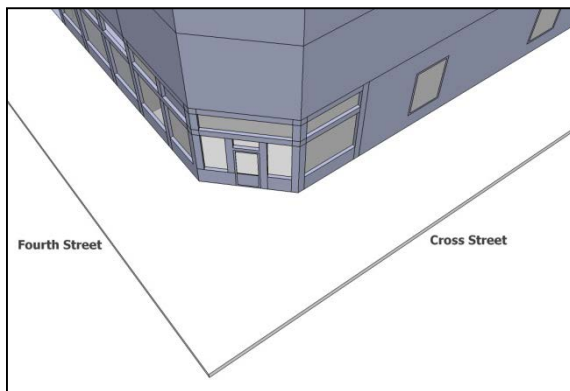


Figure 18.24.090-2

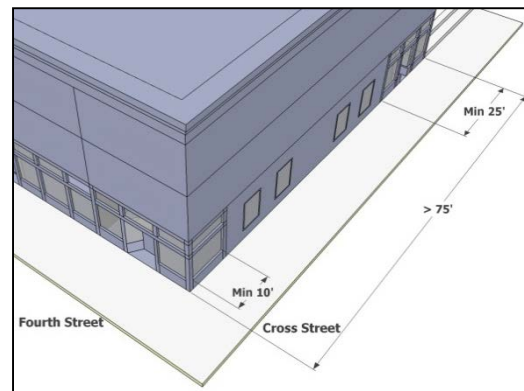


Figure 18.24.090-3

- F. Architectural features. The provisions in this section are intended to lead to a building form that is compatible with the existing historic character of the Fourth Street character area and that maintains or enhances the retail and pedestrian character of this area (see Figure 18.24.090-4).

1. Upper floors shall be designed with a pattern of vertically oriented windows with spacing between windows and the ratio of solid to void similar to surrounding historical facades.
2. Floor-to-floor heights of the ground floor and upper floors shall be compatible with surrounding historic buildings;
3. Ground floor facades facing Fourth Street shall be designed as a typical storefront having the following features: large display windows with metal or wood frames; transom windows;

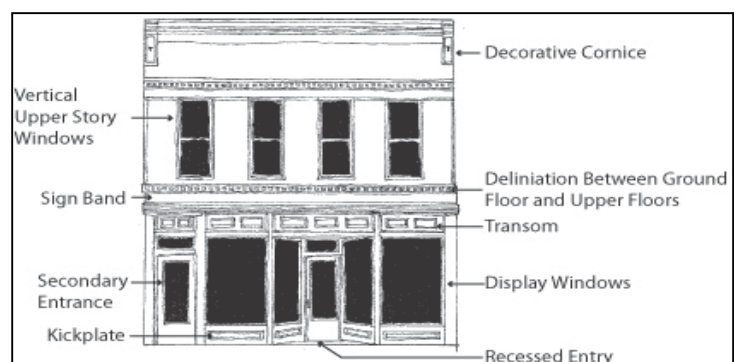


Figure 18.24.090-4

- kick plates of between one foot and two-and-a-half feet in height and constructed of metal, tile, stone, brick, or other similar high quality material.
4. Ground floor storefront doorways shall be recessed a minimum of three feet from the front of the building. The width of the recessed area shall not be more than forty percent of the width of the individual storefront or twenty feet.
 5. A single building divided into more than one store-front need not recess every storefront doorway. Secondary doors and doors servicing upstairs uses need not be recessed unless required to open outwards by building or fire codes.
 6. Ornamentation or a banding technique should be used to delineate the ground floor from the upper floors.
 7. Excepting the recessed door and any upper-story setbacks, the facade should appear as predominantly flat, with any decorative elements and projecting or setback “articulations” appearing to be subordinate to the dominant building form.
 8. The roof shall incorporate a parapet wall with a cornice treatment, capstone finish, or similar feature facing public streets rights-of-way.
 9. The traditional function of awnings was to protect pedestrians and shoppers from sun, rain, and snow. Awnings should express the dimensions of the storefront framing and not obscure characteristic lines or details.
 10. Facades need not mimic historical buildings, but shall be of a style that is compatible in rhythm, massing, material and design with the historic character of Fourth Street. Thematic facade designs, such as “Swiss chalet,” should not be used.
- G. Materials. These provisions are intended to lead to construction with quality materials that will match existing character and historic precedent, that will be durable, and that will enhance the retail and pedestrian character of this area.
1. Facades facing Fourth Street shall consist of brick, stone, masonry, or similar high quality material.
 2. Facades facing Garfield Avenue, Railroad Avenue, Cleveland Avenue, Lincoln Avenue, Jefferson Avenue and Washington Avenue, or any identified pedestrian alley, shall consist of a minimum of fifty percent brick, stone, masonry, or similar high quality material.
 3. Non-party walls facing side lot lines shall consist of a minimum of fifty percent brick, stone, or masonry.
 4. These materials standards shall not apply to upper floors which are recessed in accordance with Section 18.24.060A.3.d.
- H. Windows and doors: These provisions are intended to result in a permeable street wall that matches existing character and historic precedent and enhances the pedestrian and retail character of this area.
1. Windows and doors shall comprise a minimum percentage of facades facing public streets rights-of-way, as indicated by Table 18.24.090-2.
 2. Any section of wall facing Garfield Avenue, Arthur Avenue, Railroad Avenue, Cleveland Avenue, Lincoln Avenue, or Jefferson Avenue may not exceed twenty-five feet without containing windows or doors on the first floor.
 3. Highly reflective or darkly tinted glass is inappropriate in first-floor storefront display windows.
 4. Existing buildings need not meet these window and door standards, unless these standards can be met by opening original windows or storefronts which were previously enclosed.
 5. During renovation of the facade of a building that has been evaluated as contributing to a downtown historic district in the Historic Preservation Plan, historic window openings that have been altered should be restored.

Table 18.24.090.-2

Facade Type / Location	Minimum Percentage of windows and doors
Ground Floor, Facing Fourth Street	50%
Ground floor, cross street	30%
Upper floors ¹	15%
Facing Alley	0%
1. Upper floor surface area shall be measured excluding cornice or other roof features.	

18.24.100 Neighborhood transition character area urban design standards.

- A. Intent. Certain areas of the downtown BE district maintain a largely consistent character of high-quality historic homes. Additionally, several pockets of BE district areas lie within traditional residential neighborhoods. These neighborhoods are often characterized by mainly traditional one-family residential structures with pockets of other development; and tree-lined streets. The neighborhood transition character area is meant to protect the character of these areas when redevelopment or new development occurs, while allowing for a mix of uses appropriate to these areas and allowed by zoning. The neighborhood transition areas are also meant to transition to adjoining neighborhoods.
- B. Applicability.
1. Neighborhood transition character area. These standards shall be applicable to properties within the neighborhood transition character area as identified in Figure 18.24.070-1 and Figure 18.24.070-2.
 2. The standards in this Section 18.24.100 are type 2 standards.
 3. New construction. These standards shall apply to new construction of buildings and structures, including additions.
 4. Facade renovation. These standards shall apply only to those portion(s) of each elevation that is being renovated.
 5. This section shall not require a change in existing setbacks during a facade renovation.
 6. This section shall not require the modification of existing setbacks in cases of building expansion except that a building cannot be expanded, in such a manner that the setback of the new construction will not conform to Section 18.24.110D. below.
 7. These standards, other than those pertaining to setbacks, shall not apply to one-family detached and two-family attached and detached residential uses.
- C. Massing and architectural rhythm.

1. New buildings or additions should continue a massing pattern that is similar to the existing pattern of the block face as shown in Figure 18.24.100-1. For the purposes of this section, massing shall refer to height, width, bulk, roof form, or roof slope and direction of slope.

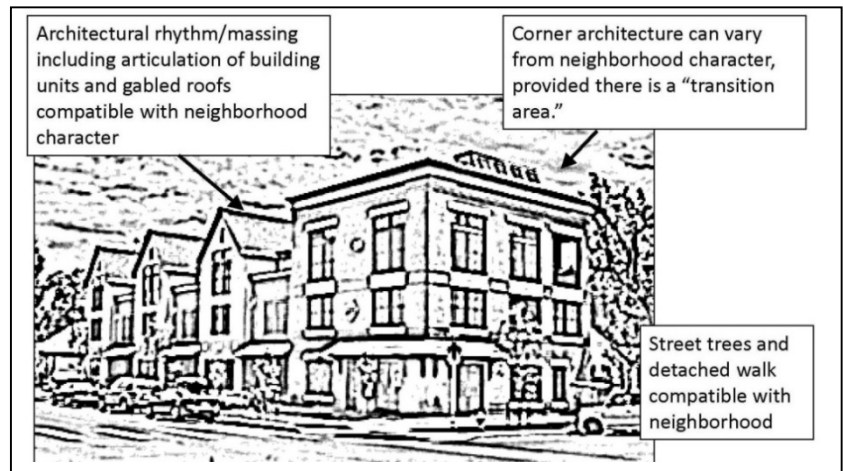


Figure 18.24.100-1

2. Compliance may be accomplished by creating independent building modules through articulation, roofline, or other distinguishing features.
3. New buildings shall have pitched roofs including hips or gables in order to match the residential character of the area. Buildings located on a lot with frontage on Washington Avenue, Jefferson Avenue, and Lincoln Avenue are not required to have a pitched roof but must meet the massing and setback standards set forth in Section 18.24.100D.3.a.
4. Elevations facing a public street shall consist of at least fifteen percent openings including windows and doors.
5. Materials. Structures shall be constructed of quality materials as defined in Section 18.24.080E.b., but designers should consider the use of exterior cladding materials such as brick or siding commonly used on residential structures. Architectural metals such as bronze, copper, and wrought iron may not exceed twenty percent of any one facade.
6. Garage placement and design: Attached garages shall be setback from the front facade of a structure a minimum of six feet. The width of the total elevation of garage doors facing a public street may be no more than eighteen feet.
7. Each primary structure shall have at least one entrance facing a public street. This entrance shall have a direct pedestrian connection to the adjacent sidewalk.

D. Setbacks.

1. Building setbacks shall be in accordance with Table 18.24.100-1. Front setbacks shall be within four feet of the average setback on the block face, provided that the resulting setback is in keeping with the character of the block. See Figure 18.24.110-2 for an example of how a front yard setback is determined.

Table 18.24.100-1

Setbacks in Neighborhood Transition Character Area ³					
	Front setback ¹	Side setback, adjoining lot	Side setback, right-of-way ¹	Rear setback, adjoining lot	Rear setback, alley
Principal Structure	Within 4' of the average setback on the block face	1' per 5' of height, not less than 5'	10'	10'	0'

Accessory structure ²	Not less than setback of principal structure	5'	10'	5'	0'
1. See Section 18.24.100D.3. for setback requirements for lots with frontage on Washington Avenue, Jefferson Avenue and Lincoln Avenue. 2. Garages must be set back less than five or more than eighteen feet from alley rights of way. 3. No building shall be located closer than fifteen feet from the face of curb.					

For lots with frontage on Washington Avenue, Jefferson Avenue, and Lincoln Avenue; the setback for buildings may be reduced or buildings may be built to the back of the public sidewalk on all street frontages provided there is a transition between the corner lot and the rest of the block face.

A transition may include:

- a. A front yard setback that meets the requirements of Section D.1. for a minimum width of twenty-five feet combined with a building massing of at least twenty-five feet in width that Figure 18.24.100-2 is similar to the massing pattern on the rest of the block face, is implemented for the entire length, front to back, of the structure and has at least two of the following aspects: height, width, bulk, roof form, or roof slope and direction of slope similar to other structures on the block face (see Figure 18.24.100-3) or
 - b. An existing alleyway.
- E. Additions, expansions, or modifications to existing buildings: The intent of this provision is to provide guidelines that maintain the character of the largely historically intact neighborhood transition character areas when existing structures are converted from residential to commercial use or are expanded.
1. When a residential structure is converted into a commercial use, the basic residential form of the building should remain.
 2. An existing front porch shall remain and shall not be enclosed.
 3. The existing window pattern on street-facing facades shall not be dramatically changed.
 4. The exterior cladding or material should remain that of a residential building and feature brick, siding or other appropriate material.
 5. Additions or expansions to existing structures shall not be in front of the front setback or side setback on corner lots unless the existing setback is more than three feet back from the

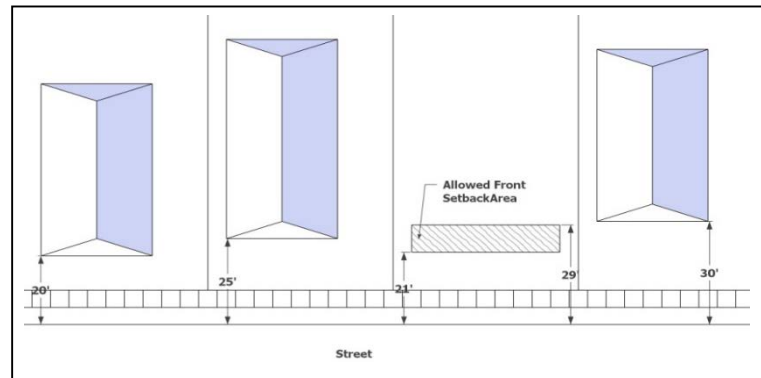


Figure 18.24.100-2

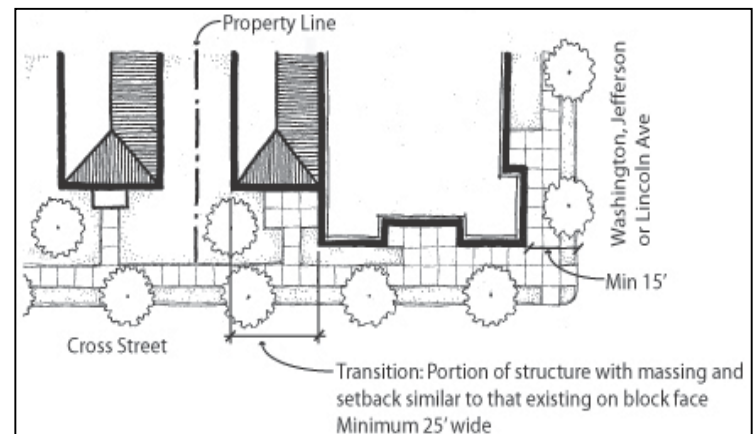


Figure 18.24.100-3

allowed setback on that block face. Additions or expansions of an existing structure shall utilize a roof form with the same pitch as the existing roof and be constructed of similar material as the original structure.

6. The use of metal as anything other than an accent is prohibited.
- F. Parking. The intent of these provisions is to minimize the impact of parking areas on the existing and desired character of the neighborhood transition character areas. These provisions shall not apply to one-family and two-family residential uses.
 1. Parking shall not be allowed between the front façade and a public street or in the side yard setback adjacent to a public street on corner lots (see Figure 18.24.100-4).
 2. Parking shall be screened from adjacent residentially zoned lots and residential uses by an opaque fence a minimum of six feet tall. This fence shall not extend beyond the front yard setback. Parking shall be screened from public rights of way, not including alleys, and residential zoning or uses per Section 4.07.02.A. of the *Site Development Performance Standards and Guidelines*, except that Figure 18.24.100-4 the parking lot shall be screened per these standards for its entire length exclusive of driveways.
 3. To the maximum extent possible, vehicular access to lots should be provided through the existing alleys. Where curb cuts from adjoining streets already exist or are required, the preferable design is to have vehicular ingress from the public street and egress into an alley.
 4. In order to maintain a pedestrian friendly environment, vehicular access from public street rights of way shall be designed and constructed to be as narrow as possible. Whenever possible, new curb cuts shall be placed so as to not require the removal of existing street trees.
 5. For lots where parking is the principle use, the parking lot shall be setback in accordance with Section 18.24.100D.

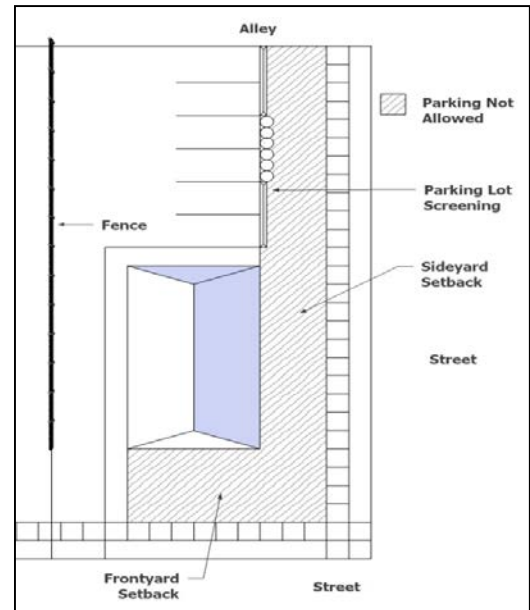


Figure 18.24.100-4

18.24.110 Landscaping.

- A. Purpose and intent. The landscaping standards for the BE District are intended to set a minimum landscape standard that emphasizes those elements most important to the creation of a pedestrian friendly environment that can support a variety of uses and building forms.
- B. Applicability.
 1. These standards shall apply in any areas between a building facade and a public street.
 2. These standards shall apply to plaza spaces constructed in accordance with Section 18.24.080E.2.c.ii.2.
 3. Street trees and tree lawn landscaping improvements shall be required when: (i) there is new construction of primary structures; (ii) renovations of a value of greater than twenty-five percent of the assessed valuation of the building are undertaken; (iii) the footprint of an existing building is expanded by more than twenty-five percent; (iv) or the building changes from a residential use to a non-residential use.

4. Landscaping requirements shall not apply when building improvements or modifications do not increase the gross floor area such as in the case of facade renovations, the construction of external stairwells, porches, or the installation of awnings.
- C. Landscaping: type 1 standard. The landscaping standards included regarding street trees and parking lot landscaping and screening in Chapter 4 of the Site Development Performance Standards and Guidelines shall be applicable to all non-residential and multi-family residential uses.
- D. Street Trees. The following type 2 standards are applicable to all street trees in the BE district. The provision of street trees is essential for the creation of a pedestrian friendly downtown area. Street trees are generally located between the curb and the main pedestrian pathway. In this location, they provide shade for pedestrians and serve to buffer pedestrians from auto traffic.
 1. Street trees shall be provided along all street frontages of a lot.
 2. Street trees shall be planted on thirty-five foot centers, taking into account the location of public utilities and curb cuts. Diseased or dying trees shall be removed by the property owner and new trees must be replanted in accordance with these provisions.
 3. The location used for the installation of street trees shall be a minimum of ten feet in width in situations associated with new construction of sidewalks. The current planning manager may reduce this width based on site constraints. The installation of trees should utilize design practices such as interconnecting tree soil from planting bed to planting bed.
 4. Street trees shall be of a species commonly considered to be canopy trees.
 5. A minimum sidewalk horizontal clearance of six feet shall be maintained.
 6. In instances where a tree lawn is provided the ground cover in the tree lawn shall be low growing and durable so as not to prevent or interfere with people using curbside parking and exiting from vehicles onto the tree lawn. The use of rock or stone in the tree lawn shall not be allowed.
 7. Existing mature street trees should be maintained wherever feasible.
 8. All existing healthy and mature trees shall be preserved and incorporated into the site design for new off-street parking areas and buildings.
- E. Plazas: type 2 standard. Landscaping in public plaza spaces built as allowed in Section 18.24.080E.2.c.ii.2. should be designed with consideration given to the proposed use of the space. It is appropriate for onsite landscaping in the form of plazas or semi-public open space to employ the use of more softscape design elements than the landscape design in the public sidewalk areas, especially if they are attached to a residential use.

Chapter 18.28

B DISTRICT-DEVELOPING BUSINESS DISTRICT

Sections:

18.28.000	Purpose.
18.28.010	Uses permitted by right.
18.28.020	Uses permitted by special review.
18.28.030	Minimum yards.
18.28.035	Height limitations.
18.28.040	Off-street parking.
18.28.050	Site development plan review.
18.28.060	Usable open space.
18.28.070	Lot area, multiple-family dwellings.
18.28.080	Residential landscaping.

18.28.000 Purpose.

The developing business (B) district is intended to provide for auto-oriented and auto-dependent uses, primarily along established commercial corridors of the city. This district is applied to many of the city's established commercial corridors and corresponds to the areas depicted as CC-corridor commercial on the Comprehensive Master Plan's Land Use Plan Map. These areas provide a wide range of general retail goods and services for residents of the entire community, as well as businesses and highway users, primarily inside of enclosed structures. Locations for this zone require good vehicular access.

18.28.010 Uses permitted by right.

The following uses are permitted by right in the B district:

- A. Financial services;
- B. Gas station with or without convenience goods or other services subject to Sections 18.52.060 and 18.50.135 and located three hundred feet or more from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- C. Place of worship or assembly;
- D. Lodging establishments;
- E. Clubs and lodges;
- F. Medical, dental, or professional office or clinic;
- G. Office, general administrative;
- H. Parking lot and parking garage;
- I. Park or recreation area;
- J. Personal and business service shop;
- K. Public and private school;
- L. Essential public utility uses, facilities, services, and structures (underground);
- M. Indoor entertainment facility and theater;
- N. Restaurant standard;
- O. Retail store;
- P. Bed and breakfast establishment;
- Q. Accessory buildings and uses;
- R. Commercial child day care center licensed according to the statutes of the state;
- S. Multiple-family dwellings for the elderly;

- T. Combined use (or mixed-use) developments of permitted use;
- U. Boardinghouses and rooming houses;
- V. Community facility;
- W. Long term care facility;
- X. One-family dwelling;
- Y. Printing shop, provided that no such shop occupies more than 3,500 square feet of floor area;
- Z. Retail laundry;
- AA. Special trade contractor's shop (any outdoor storage shall be subject to special review as provided in Chapter 18.40.);
- BB. Two-family dwelling;
- CC. Antennas, as defined in Section 18.55.020, located on an existing tower or structure as provided in Section 18.55.030 and meeting all other requirements of Chapter 18.55;
- DD. Art gallery, studio, and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40.
- EE. Bar or tavern;
- FF. Convention and conference center;
- GG. Food catering;
- HH. Funeral home
- II. Garden supply;
- JJ. Health care service facility;
- KK. Outdoor storage of equipment or products or other goods as an accessory use subject to Section 4.06 of the Site Development Performance Standards and Guidelines;
- LL. Parking garage and parking lots;
- MM. Research laboratory;
- NN. Warehouse and distribution (enclosed within a building);
- OO. Hospital;
- PP. Workshop and custom small industry (entirely enclosed within a building and provided there is no excessive odor, glare, smoke, heat, vibration, etc.). Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40; and
- QQ. Shelter for victims of domestic violence, subject to Section 18.52.070.

18.28.020 Uses permitted by special review.

The following uses are permitted by special review in a B district subject to the provisions of Chapter 18.40:

- A. Vehicle sales and leasing of cars and light trucks;
- B. Vehicle minor and major repair, servicing and maintenance;
- C. Car wash;
- D. Combined-use (or mixed-use) developments containing one or more special review use(s);
- E. Dairy processing plants, laundry and dry-cleaning plants;
- F. Gas station with or without convenience goods or other services subject to Sections 18.52.060 and 18.50.135 and located less than three hundred feet from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district)
- G. Lumberyard;
- H. Light industrial, indoor;
- I. Mobile home park and RV park/campground;
- J. Pet store and veterinary clinic small animal hospitals;

- K. Printing shop over 3,500 square feet of floor area;
- L. Aboveground public utility and public service installations and facilities, essential public utility uses, facilities, services, and structures (above ground);
- M. Private recreational uses, outdoor;
- N. Restaurants and other eating and drinking places, outdoor;
- O. Undertaking establishments;
- P. Warehouses and enclosed storage;
- Q. Wholesale stores;
- R. Multiple-family dwelling;
- S. Restaurant, drive-in or fast food;
- T. Massage parlors(massage therapy included in definition of health care service facility);
- U. Congregate care facility;
- V. Combined use developments including one or more special review use(s);
- W. Attended recycling collection facility;
- X. Unattended recycling collection facility;
- Y. Convenience store;
- Z. Personal wireless service facility (on new structure) as defined in Section 18.55.020, located on a new structure, meeting all requirements of Chapter 18.55;
- AA. Group care facility;
- BB. Contractor's storage yard;
- CC. Domestic animal day care facility;
- DD. Open-air farmers market;
- EE. Outdoor recreation facility;
- FF. Nightclub;
- GG. Plant nursery;
- HH. Self-service storage facility;
 - II. Vehicle rentals for cars, light trucks and light equipment;
 - JJ. Sales and leasing of farm equipment and mobile homes, recreational vehicles, large trucks and boats with outdoor storage;
- KK. Vehicle rental for heavy equipment, large trucks, and trailers;
- LL. Outdoor storage of equipment, products or other goods as a principle use;
- MM. Crematorium, subject to Section 18.52.080; and
- NN. Firing range, indoor.

*See Chapter 18.40.

18.28.030 Minimum yards.

- A. Minimum yards in a B district, being the minimum distance of any building from a street right-of-way or zoning district boundary line, shall be twenty-five feet. The minimum distance of any building to an alley right-of-way or public alley easement boundary line shall be fifteen feet.
- B. Subsection A. notwithstanding, residential uses within a B district shall be the following setback requirements:
 - 1. The minimum front yard lot shall be as follows:
 - a. Single, two, and three-family dwelling: twenty feet.
 - b. All other residential uses: twenty-five feet.
 - 2. The minimum side yard of a lot shall be as follows:
 - a. Single, two, and three-family dwelling: one foot for each three feet or fraction thereof of building height; except that no side yard shall be less than five feet.
 - b. All other residential uses: ten feet.

- c. Subsections 2.a. and b. notwithstanding, the minimum street side yard for any residential use shall be fifteen feet.
- 3. The minimum rear yard of a lot shall be as follows:
 - a. Principal structure: fifteen feet.
 - b. Detached accessory: five feet.

18.28.035 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54.

18.28.040 Off-street parking.

The minimum off-street parking in the B district shall be as provided in Chapter 18.42.

18.28.050 Site development plan review.

Category 2 development shall be subject to the provisions of Chapters 18.39 and 18.46, and the site development performance standards and guidelines as provided in Chapter 18.47.

18.28.060 Usable open space.

The usable open space in the B district shall be ten percent of the total lot area.

18.28.070 Lot area, multiple-family dwellings.

- A. The minimum area of a lot for multiple-family dwellings in the B district shall be seven thousand square feet for the first two units, plus one thousand square feet for each additional dwelling unit up to four dwelling units, plus two thousand square feet for each additional dwelling unit over four units.
- B. The minimum area of a lot for multiple-family dwellings for the elderly shall be seven thousand square feet.

18.28.080 Residential landscaping.

All residential parcels developed within the B district shall be landscaped with materials such as grass, shrubs, trees, or decorative materials. A minimum of two trees shall be provided for each two-family dwelling. The required trees shall be combinations of deciduous and coniferous trees with each deciduous tree having a minimum caliper of two inches at time of planting and each coniferous tree having a minimum height of six feet. All landscaping requirements shall be completed prior to occupancy of the structure or within thirty days following the beginning of the next planting season.

Chapter 18.29

MAC DISTRICT – MIXED-USE ACTIVITY CENTER DISTRICT

Sections:

18.29.010	Purpose.
18.29.020	Uses permitted by right.
18.29.030	Uses permitted by special review.
18.29.040	Development standards.
18.29.050	Site development plan review.
18.29.060	Schedule of flexible standards.

18.29.010 Purpose.

The Mixed-use Activity Center (MAC) District is intended to be applied to areas designated as mixed-use activity centers by the Land Use Plan. This district may also be used in other appropriate locations, such as along existing commercial corridors, or in residential areas to provide larger neighborhood-serving commercial centers. MACs may include a wide variety of retail and commercial uses serving the surrounding area as well as larger retail uses serving a community-wide or regional market. Such areas may also include residential and office uses adjacent to the MAC's core or above ground floor retail. Such centers are typically located at major road and highway intersections, or along major corridors and are predominantly auto-oriented. However, the center should be designed to provide convenient access to and from adjacent neighborhood(s) for pedestrians and bicyclists.

18.29.020 Uses permitted by right.

The following uses are permitted by right in a MAC district:

- A. Art gallery, studio, and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40.
- B. Restaurant, standard;
- C. Car wash;
- D. Commercial child day care center licensed according to the statutes of the state;
- E. Clubs and lodges;
- F. Convention and conference center;
- G. Entertainment facilities and theaters, indoor;
- H. Financial services;
- I. Food catering;
- J. Funeral home;
- K. Gas station with or without convenience goods or other services subject to Sections 18.52.060 and 18.50.135 and located three hundred feet or more from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- L. Health care service facility;
- M. Hospital;
- N. Indoor recreation;
- O. Lodging establishment (hotel and motel);
- P. Long term care facilities;
- Q. Medical, dental, or professional clinic or office;
- R. Nightclub;

- S. Office, general administrative;
- T. Parking garage;
- U. Parking lot;
- V. Personal and business service shops;
- W. Place of worship or assembly;
- X. Print shop;
- Y. Professional office/clinic;
- Z. Public and private schools;
- AA. Restaurant, drive-in or fast food;
- BB. Restaurant, standard indoor;
- CC. Restaurant, standard outdoor;
- DD. Retail laundry (laundromat);
- EE. Retail store;
- FF. Veterinary facilities, small animal;
- GG. Workshop and custom small industry (entirely enclosed within a building and provided there is no excessive odor, glare, smoke, heat, vibration, etc.). Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40;
- HH. Dwelling, attached single-family;
 - II. Dwelling, detached single-family;
 - JJ. Dwelling, multi-family;
- KK. Dwelling, two-family;
- LL. Elderly housing;
- MM. Dwelling, mixed use;
- NN. Community facility;
- OO. Park or recreation area;
- PP. Antennas as defined in Section 18.55.020, co-located on an existing tower or structure as provided in Section 18.55.030 and meeting all other requirements of Chapter 18.55;
- QQ. Accessory buildings and uses; and
- RR. Shelter for victims of domestic violence, subject to Section 18.52.070.

18.29.030 Uses permitted by special review.

The following uses are permitted by special review in a MAC district subject to the provisions of Chapter 18.40:

- A. Domestic animal day care facility;
- B. Gas station with or without convenience goods or other services subject to Section 18.52.060 and located less than three hundred feet from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- C. Open-air farmers market;
- D. Outdoor recreation facility;
- E. Self-service storage facility;
- F. Vehicle minor repair, servicing, and maintenance;
- G. Vehicle rentals for cars, light trucks, and light equipment;
- H. Vehicle sales and leasing for cars and light trucks;
- I. Research laboratory;
- J. Essential public utility uses, facilities, services, and structures;
- K. Group care facility;
- L. Long term care facility (nursing home);
- M. Personal wireless service facility as defined in Section 18.55.020, located on a new structure,

- meeting all requirements of Chapter 18.55;
- N. Public service facility;
- O. Crematorium, subject to Section 18.52.080; and
- P. Firing range, indoor.

18.29.040 Development standards.

The following standards shall be administered as type 2 standards in accordance with Section 18.53.020.

- A. Architecture. In addition to architectural standards in Chapter 18.53, commercial and mixed-use buildings in MAC districts shall include at least one significant defining architectural element or feature that conveys a sense of architectural depth and substance. Examples include substantial offsets that differentiate building masses; arcades with substantial columns; towers with roofs that extend fully around the building or feature; extensive use of decorative block; stone and/or brick finish material; deep gable roofs with substantial eaves or over hangs; or other equivalent feature (Figures 18.29.040-1-4).
- B. Pedestrian circulation. A continuous primary pedestrian route shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, and building entrances. Pedestrian/auto crossings shall be concentrated at key intersections, shall be incorporated into the primary pedestrian network, and shall be clearly delineated by a change in paving materials. The primary pedestrian route shall feature an adjoining landscaped area on at least one side with trees, shrubs, benches, ground covers or other such materials for no less than fifty percent of the length of the primary pedestrian route.
- C. Screening large parking fields. Sites with large parking fields shall be encouraged to place and orient outlot or pad site buildings to screen large retail parking lots. Outparcels or pad sites shall minimize parking between the building and the frontage road to create a “building wall” along the frontage road. Where possible, landscape features (e.g. trees and shrubs, trellis, decorative wall, entry feature, etc.) shall be used to fill gaps between outlot buildings and where outlots are not planned. Where possible, “overflow” parking shall be placed to the side or rear of the building (see Figure 18.39.040-5).
- D. Loading areas. The following location and screening requirements shall apply to loading areas, service, and storage areas:
 - 1. Loading docks, solid waste facilities, and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
 - 2. Screening and landscaping shall prevent direct views of the loading areas from adjacent properties or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes.
 - 3. Screening shall be provided in the form of landscaping or as an integral part of the building architecture such as walls, architectural features, and shall be visually impervious. Recesses in the building or depressed access ramps may be used. Chain link fencing with slats shall not be an acceptable form of screening.
- E. Utility boxes. Utility boxes, including, but not limited to, electric transformers, switch gear boxes, and telephone pedestals and boxes shall be screened from view on all sides not used for service access. The materials and colors of the materials used to provide the screening shall blend with the site and the surroundings.
- F. Trash enclosures: Trash enclosures shall be placed around dumpsters and any other proposed trash receptacle. Trash enclosures shall prevent trash from being scattered by wind or animals. The dumpster shall be placed on a concrete pad, enclosed by an opaque wall at least six feet in height, with opaque gates. Trash enclosures shall be sturdy and built with quality wood and/or masonry materials similar or compatible with the primary materials of the primary structure.

Trash enclosures shall be sited so the garbage truck has convenient access to the enclosure and has room to maneuver without backing onto a public right-of-way.

- G. Other. The requirements of Chapter 18.53 and the Site Development Performance Standards and Guidelines shall apply to development within the MAC district.

Figure 18.29.040-1



Figure 18.29.040-2



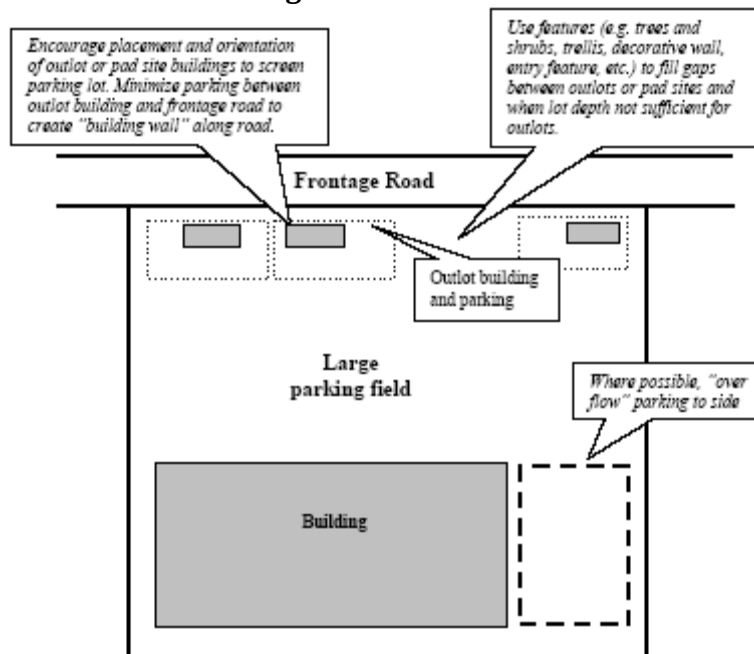
Figure 18.29.040-3



Figure 18.29.040-4



Figure 18.29.040-5



18.29.050 Site development plan review.

- A. Category 2 development in the MAC District shall be subject to the provisions of chapters 18.39 and 18.46 and the Site Development Performance Standards and Guidelines as specified in Chapter 18.47. Conceptual Master Plan.
1. Where a site development plan application is not submitted for the entire site concurrent with

the rezoning application, a Conceptual Master Plan shall be provided for the entire site to ensure the coordinated development of the entire site. The Conceptual Master Plan must include the general type, intensity and location of land uses and public facilities, the overall classification and design of the primary road and pedestrian network, and a development phasing plan if applicable, including all information that the planning division may require. The Conceptual Master Plan shall also include a narrative statement, conceptual renderings, schematic designs, architectural guidelines or other information as needed demonstrating how the proposed development plan complies with Section 18.29.040. The Conceptual Master Plan shall be provided with a MAC district rezoning application, and the rezoning approval shall be subject to compliance with the Conceptual Master Plan as reference in the rezoning ordinance. Subsequent applications submitted for a use permitted by right or by special review shall conform to the Conceptual Master Plan.

2. A neighborhood meeting and public hearing for the Conceptual Master Plan shall be held concurrent with those for the rezoning, with notice provided pursuant to Chapter 18.05 Public Notice.
- B. Plan modifications. Modifications to the Conceptual Master Plan as required to show compliance with Section 18.29.040, or that comply with Section 18.29.060, may be approved administratively by the current planning manager. Changes to permitted uses or substantial changes to the location of land uses as depicted on the Conceptual Master Plan are a major modification and shall require a neighborhood meeting and be submitted for review and final approval by the planning commission with the planning commission's decision and conditions, if any, referenced in a resolution.

18.29.060 Schedule of flexible standards.

<i>Chapter 18.29 MAC and E Districts</i> Schedule of Flexible Standards								
Non-Residential				Residential				
District	Front Bldg. Setback (1)	Rear & Side Bldg. Setbacks (2)	Bldg. Height (3)	Residential Density	Front (2)	Rear (2)	Side (2)	Height
MAC-Community Activity Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements, Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Up to 16du/ac (6) (7)	20 ft	15 ft	5 ft	40 ft
E-Employment Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Residential up to 20% of total project area, up to 16du/ac (7)	20 ft	15 ft	5 ft	40 ft

Use	Maximum height of building or structure	Maximum height of accessory building or structure
MAC-Mixed-use Activity Center District	As provided in Chapter 18.29 MAC District Schedule of Flexible Standards	50

Notes to MAC and E Districts Schedule of Flexible Standards:

- (1) Building setbacks shall be measured from the edge of the future right-of-way. Development sites within the area cover by the U.S. 34 Corridor Plan shall conform to all road setback and design requirements of that plan. Exceptions from U.S. 34 Corridor Plan standards may be permitted for development plans following guidelines for optional flexible standards in note (2) below.

- (2) Optional flexible standards: Setback required by this section and buffer standards required by Section 4.04 of the Site Development Performance Standards and Guidelines may be reduced or waived for projects that orient buildings to streets to create an attractive pedestrian environment following “new urbanism” or “smart code” principles (see “The Lexicon of the New Urbanism” or “Smart Code”).
- a. Where front setbacks are reduced, a treelawn not less than four feet in width shall be provided between the outer edge of the curb and the sidewalk. Canopy trees planted not less than thirty feet on-center (Figure 18.29-1) shall be provided in the treelawn. Landscaped bulb-outs and trees planted in tree grates in the sidewalk (Figure 18.29-2), with on-street parking, may be provided instead of a treelawn. Where garages face and are accessed from the street, at least twenty feet shall be provided between the face of the garage and the back of the sidewalk so that adequate space is provided for vehicle parking in the driveway.
 - b. Residential buildings with reduced setbacks shall include features such as covered porches or front stoops and walkways between buildings and the public sidewalk. Also, garages should be placed to the rear of the lot behind the primary structure, with side driveway or alley access.
 - c. In evaluating proposals with reduced setbacks, consideration shall be given to existing setbacks in adjacent developed areas to avoid incompatible and/or inconsistent design conditions.
- (3) Subject to height restriction in Section 18.54.040, which restricts any nonresidential use or multi-family use located closer than fifty feet from the property boundary of a residential use, excluding multi-family dwelling units, shall be limited to the maximum height allowed for a single family residential use.
- (4) All uses other than office, research, lodging, and mixed-use (see Note (5)).
- (5) Office, research, lodging, and mixed-use (mixed-use means residential located in the same building as non-residential uses).
- (6) There shall be no limit on the amount of land area within a MAC district that may be devoted to residential use; however, for projects exceeding fifty percent residential land area, the applicant must demonstrate that sufficient land area is devoted to commercial use within the project, or within the vicinity of the project, to meet future commercial needs and demands. Such evidence may consist of a market analysis and/or an analysis of development trends and existing and proposed land uses within the vicinity of the project.
- (7) Maximum number of dwelling units permitted per acre. The density calculation shall include the gross land area dedicated to residential use, including roads, drainage areas and open space within and serving the residential component of the project. Residential units that are part of a building that includes non-residential uses (mixed-use) shall not be included in the residential density calculation. (Ord. 5116 § 1, 2006)

Figure 18.29.060-1

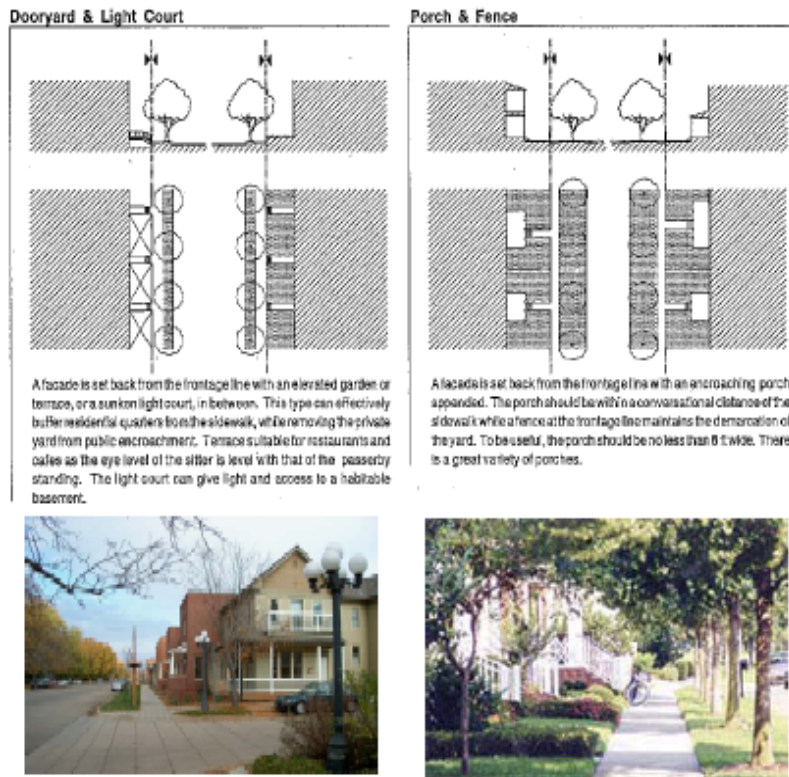
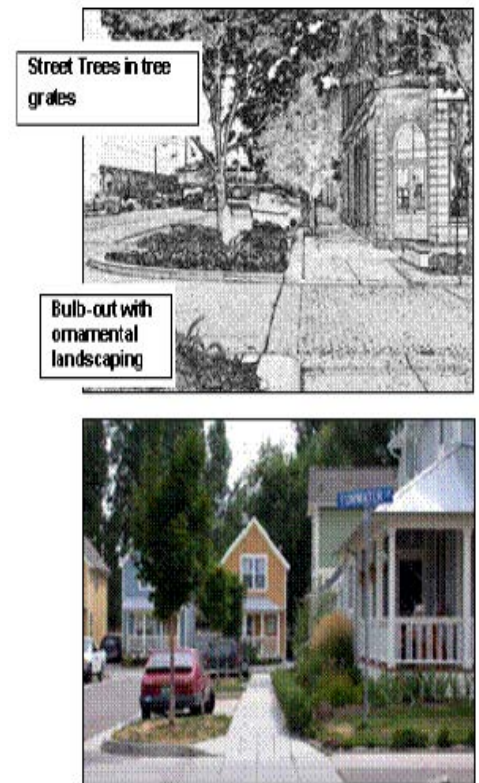


Figure 18.29.060-2



Chapter 18.30

E DISTRICT – EMPLOYMENT CENTER DISTRICT

Sections:

18.30.010	Purpose.
18.30.020	Uses permitted by right.
18.30.030	Uses permitted by special review.
18.30.040	Development standards and balance of land uses.
18.30.050	Site development plan review.
18.30.060	Schedule of flexible standards.

18.30.010 Purpose.

The employment center (E) district is a mixed-use district intended to provide locations for a variety of workplaces and commercial uses, including light industrial, research and development, offices, institutions, commercial services and housing. This E district is intended to encourage the development of planned office and business parks; promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities, streetscapes, lodging, and other complementary uses. The E district is intended to implement the E- employment center category set forth in the Comprehensive Master Plan. Uses that complement and support primary workplace uses, such as hotels, retail, restaurants, convenience shopping, child care, and housing are intended to be secondary uses and not intended to be the primary or predominant uses in the E district. Such uses should be limited to guidelines set forth in this district.

18.30.020 Uses permitted by right.

The following uses are permitted by right in an E district:

- A. Art gallery, studio, and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40;
- B. Commercial child day care center licensed according to the statutes of the state;
- C. Convention and conference center;
- D. Entertainment facilities and theaters, indoor;
- E. Financial services;
- F. Food catering;
- G. Gas station with or without convenience goods or other services subject to Section 18.52.060 and located three hundred feet or more from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- H. Health care service facility;
- I. Hospital;
- J. Indoor recreation;
- K. Lodging establishment (hotel and motel);
- L. Long term care facility;
- M. Medical and dental laboratories;
- N. Office, general administrative;
- O. Parking garage;
- P. Parking lot;
- Q. Personal and business service shops;

- R. Place of worship or assembly;
- S. Print shop;
- T. Professional office/clinic;
- U. Restaurant, standard;
- V. Retail store;
- W. Veterinary clinic;
- X. Light industrial;
- Y. Research laboratory;
- Z. Public and private schools;
- AA. Workshop and custom small industry (entirely enclosed within a building and provided there is no excessive odor, glare, smoke, heat, vibration, etc.). Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40;
- BB. Dwelling, attached single-family;
- CC. Dwelling, detached single-family;
- DD. Dwelling, multi-family;
- EE. Dwelling, two-family;
- FF. Elderly housing;
- GG. Dwelling, mixed use;
- HH. Community facility;
- II. Park or recreation area;
- JJ. Congregate care facility;
- KK. Antennas, as defined in Section 18.55.020, co-located on an existing tower or structure as provided in Sections 18.55.030 and 18.55.030 and meeting all other requirements of Chapter 18.55; and
- LL. Accessory buildings and uses.

18.30.030 Uses permitted by special review.

The following uses are permitted by special review in an E district subject to the provisions of Chapter 18.40:

- A. Bar or tavern;
- B. Car wash;
- C. Domestic animal day care facility;
- D. Gas station with or without convenience goods or other services subject to Section 18.52.060 and located less than three hundred feet from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- E. Nightclub;
- F. Open-air farmers market;
- G. Plant nursery and greenhouses;
- H. Restaurant, drive-in or fast food;
- I. Self-service storage facility;
- J. Vehicle minor repair, servicing, and maintenance;
- K. Vehicle rentals for cars, light trucks and light equipment;
- L. Vehicle rentals for heavy equipment, large trucks and trailers;
- M. Vehicle sales and leasing for cars and light trucks;
- N. Veterinary hospital;
- O. Warehouse and distribution;
- P. Firing range, indoor;
- Q. Airports and heliports;

- R. Essential public utility uses, facilities, services, and structures;
- S. Group care facility;
- T. Personal wireless service facility as defined in Section 18.55.020, located on a new structure, meeting all requirements of Chapter 18.55;
- U. Public service facility;
- V. Crematorium subject to Section 18.52.080; and
- W. Off-track betting facility.

18.30.040 Development standards and balance of land uses.

The following standards shall be administered as type 2 standards in accordance with Section 18.53.020.

- A. Balance of land uses. Not more than forty percent of the land area within a development plan shall be dedicated to non-primary workplace uses. Non-primary workplace uses include hotels, retail, convenience and service uses, restaurants, child care, housing or other uses intended to support and compliment primary workplace uses. For the purposes of this requirement primary workplace uses shall include but shall not be limited to office, research or light industrial. A proposed development plan that does not meet this requirement may be permitted if within two miles of the proposed development plan, primary workplace uses exist or the zoning for such uses is in place, in an amount that is sufficient to comply with the intent of this section and meet the long term need for primary employment land uses anticipated by the Comprehensive Master Plan.
- B. Campus-type character. E districts are intended to have a “campus-type” character with strong unifying design elements meeting the following standards:
 - 1. Unified building design. Building design shall be coordinated with regard to color, materials, architectural form, and detailing to achieve design harmony, continuity and horizontal and vertical relief and interest.
 - 2. Unified open space. Projects shall include a unifying internal system of pedestrian-oriented paths, open spaces, and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities, and convenience shopping centers). The development plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). Development plans shall include at least twenty percent of the gross site area devoted to common open space features, including features such as common area landscaped buffers, parks or plaza spaces, entrance treatments, natural areas, or wetlands, but excluding any open space or landscaped areas within required building setbacks or parking lots. Areas dedicated to storm water drainage may also be counted toward meeting the open space requirement, provided they are designed to be recreation space or as an attractive site feature incorporating a naturalistic shape and/or landscaping.
 - 3. Other unifying features: Major project entry points shall include well designed signage and entry features such as quality identity signage, sculpture, plazas, special landscape clusters, etc. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening. Shared vehicular and pedestrian access, shared parking, common open space and related amenities should be integrated into the project’s design. The overall design and layout shall be compatible with the existing and developing character of the neighboring area.
 - 4. Viewshed protection. Care shall be taken to minimize disruptions to adjacent neighborhood views of open spaces or natural features through the sensitive location and design of structures and associated improvements. Visual impacts can be reduced and better view protection provided through careful building placement and consideration of building

heights, building bulk, and separations between buildings.

5. Unified design agreement. In the case of multiple parcel ownerships, an applicant shall make reasonable attempts to enter into cooperative agreements with adjacent property owners to create a comprehensive development plan that establishes an integrated pattern of streets, outdoor spaces, building styles, and land uses consistent with the standards in this section.
- C. Other standards.
1. Significant retail and office components shall comply with standards in Section 18.29.040.
 2. See also Chapter 18.53 and Site Development Performance Standards and Guidelines.
 3. Section 18.29.040D. , E., F., and G. Other Standards shall apply in E districts.

18.30.50 Site development plan review.

Development of any use for category 2 development shall be subject to the provisions of Chapters 18.39 and 18.46, and to the design standards and guidelines specified in Chapter 18.47.

A. Conceptual Master Plan:

1. Where a site development plan application is not submitted for the entire site concurrent with the rezoning application, a Conceptual Master Plan shall be provided for the entire site to ensure the coordinated development of the entire site. The Conceptual Master Plan must include the general type, intensity and location of land uses and public facilities, the overall classification and design of the primary road and pedestrian network, and a development phasing plan if applicable, including all information that the planning division may require. The Conceptual Master Plan shall also include a narrative statement, conceptual renderings, schematic designs, architectural guidelines or other information as needed to demonstrate how the proposed development plan complies with development standards in Section 18.30.040B. and C. Additionally, the Conceptual Master Plan shall depict an allocation of land uses in a manner that demonstrates compliance with Section 18.30.040.A. The Conceptual Master Plan shall be provided with the E district rezoning application and the rezoning approval shall be subject to compliance with the Conceptual Master Plan as referenced in the zoning ordinance. Subsequent applications submitted for a use by right or a use by special review shall conform to the Conceptual Master Plan.
2. A neighborhood meeting and public hearing for the Conceptual Master Plan shall be held concurrent with those for the rezoning, with notice provided pursuant to Chapter 18.05 public notice.

B. Plan modifications.

1. Modifications to the Conceptual Master Plan as required to show compliance with Section 18.30.040, or that comply with Section 18.30.060, may be approved administratively by the director. Changes to permitted uses or substantial changes to the location of land uses as depicted on the Conceptual Master Plan are major modifications and shall require a neighborhood meeting and be submitted for final approval by the planning commission.
2. Public notice of the neighborhood meeting and the public hearing for major modifications to a Conceptual Master Plan shall be provided pursuant to Chapter 18.05 Public Notice.

18.30.060 Schedule of flexible standards

Chapter 18.30 MAC and E Districts Schedule of Flexible Standards								
Non-Residential				Residential				
District	Front Bldg. Setback (1)	Rear & Side Bldg. Setbacks (2)	Bldg. Height (3)	Residential Density	Front (2)	Rear (2)	Side (2)	Height
MAC-Community Activity Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements, Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Up to 16du/ac (6) (7)	20 ft	15 ft	5 ft	40 ft
E-Employment Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements, Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Residential up to 20% of total project area, up to 16du/ac (7)	20 ft	15 ft	5 ft	40 ft

Use	Maximum height of building or structure	Maximum height of accessory building or structure
E-Employment Center District	As provided in Chapter 18.30 E District Schedule of Flexible Standards	50

Notes to MAC and E Districts schedule of flexible standards:

- (1) Building setbacks shall be measured from the edge of the future right-of-way. Development sites within the area covered by the U.S. 34 Corridor Plan shall conform to all road setback and design requirements of that plan. Exceptions from U.S. 34 Corridor Plan standards may be permitted for development plans following guidelines for optional flexible standards in note (2) below.
- (2) **Optional flexible standards:** Setback required by this section and buffer standards required by Section 4.04 of the Site Development Performance Standards and Guidelines may be reduced or waived for projects that orient buildings to streets to create an attractive pedestrian environment following “New Urbanism” or “Smart Code” principles (see “The Lexicon of the New Urbanism” or “Smart Code”).
 - a. Where front setbacks are reduced, a treelawn not less than four feet in width shall be provided between the outer edge of the curb and the sidewalk. Canopy trees planted not less than thirty feet on-center (Figure 18.31-1) shall be provided in the treelawn. Landscaped bulb-outs and trees planted in tree grates in the sidewalk (Figure 18.31-2), with on-street parking, may be provided instead of a treelawn. Where garages face and are accessed from the street, at least twenty feet shall be provided between the face of the garage and the back of the sidewalk so that adequate space is provided for vehicle parking in the driveway.
 - b. Residential buildings with reduced setbacks shall include features such as covered porches or front stoops and walkways between buildings and the public sidewalk. Also, garages should be placed to the rear of the lot behind the primary structure, with side driveway or alley access.
 - c. In evaluating proposals with reduced setbacks, consideration shall be given to existing setbacks in adjacent developed areas to avoid incompatible and/or inconsistent design conditions.
- (3) Subject to height restriction in Section 18.54.040, which restricts any nonresidential use or multi-family use located closer than fifty feet from the property boundary of a residential use, excluding multi-family dwelling units, shall be limited to the maximum height allowed for a single family residential use.
- (4) All uses other than office, research, lodging and mixed-use (see note (5)).
- (5) Maximum number of dwelling units permitted per acre. The density calculation shall include the gross land area dedicated to residential use, including roads, drainage areas and open space within and serving the residential component of the project. Residential units that are part of a building that includes non-residential uses (mixed-use) shall not be included in the residential density calculation.

(6) Office, research, lodging and mixed-use (mixed-use means residential located in the same building as non-residential uses). There shall be no limit on the amount of land area within a MAC district that may be devoted to residential use; however, for projects exceeding fifty percent residential land area, the applicant must demonstrate that sufficient land area is devoted to commercial use within the project, or within the vicinity of the project, to meet future commercial needs and demands. Such evidence may consist of a market analysis and/or an analysis of development trends and existing and proposed land uses within the vicinity of the project.

Chapter 18.32

PP DISTRICT – PUBLIC PARK DISTRICT

Sections:

18.32.010	Purpose.
18.32.020	Definitions.
18.32.030	Uses permitted by right.
18.32.040	Uses permitted by special review.
18.32.050	Site development plan review.
18.32.060	Height limitations.
18.32.070	Off-street parking area.

18.32.010 Purpose.

The purpose of the public park (PP) district is to establish and preserve areas in the city for public recreation facilities, parks and open space lands described in the Parks and Recreation Master Plan.

18.32.020 Definitions.

As used in this chapter:

“Cemeteries or memorial gardens” means any publicly-owned land used for burial or memorials.

“Community park” means a publicly-owned park as defined and described in the Parks and Recreation Master Plan. Community parks serve as focal points within the community. Community parks usually have parking, increased traffic due to active programmed sports, lighting, and increased noise. Community parks are greater than thirty acres and usually serve approximately a four-mile service area with a one-mile radius surrounding the park. Typical facilities include those allowed in neighborhood parks plus all facilities listed in the Park and Recreation Master Plan.

“Golf courses” means any publicly-owned golf facility or area as defined and described in the Parks and Recreation Master Plan, and may include both indoor and outdoor facilities, buildings, and accessory uses.

“Neighborhood park” means a publicly-owned park as defined and described in the Parks and Recreation Master Plan. Neighborhood parks are centrally located, accessible to surrounding neighborhoods, and should be equally distributed throughout the city. A neighborhood park should be a minimum of eight acres in size and serve approximately a one- mile service area with a half mile radius surrounding the park. Typical facilities include informal softball and soccer/football fields, volleyball, basketball, playground, horseshoe, tennis, shelter/pavilion with tables, pathways, and free play areas.

“Open lands/natural areas” means all areas as defined and described in the open lands plan or as further described in the Parks and Recreation Master Plan.

“Recreational facilities” means any publicly-owned recreation facility or area as defined and described in the Parks and Recreation Master Plan, and may include both indoor and outdoor uses.

“Recreational trail” means a publicly-owned or maintained trail system, including trailheads, as defined, described, and identified in the Parks and Recreation Master Plan. Trails are typically located along drainage ways and irrigation canals or within acquired open lands/natural areas, easements, or land owned by the city. The recreational trail is intended to encircle the city in a connecting loop. Trails are predominately off-road, non-motorized recreational routes constructed as ten-foot wide concrete paths. Soft path trails may parallel the concrete surface where practical. Where feasible, trailheads will be located and may include parking, drinking water, restrooms, and information on the trail system.

“Regional park” means a publicly-owned park which offers leisure value beyond the neighborhood or community park. Often there is an environmental or scenic quality, such as a river or mountain terrain, within a regional park. Regional parks are usually larger than two hundred acres. Viestenz-Smith mountain park is categorized as a regional park.

“School recreation areas” means a publicly-owned park or recreation area as defined and described in the Parks and Recreation Master Plan. These areas are located adjacent to schools or are cooperatively developed as recreation areas on school properties. These areas should be developed where practical and beneficial to serve neighborhoods that lack a park or have access barriers. Facilities may include youth baseball/softball fields, volleyball, basketball, soccer/football, playground, and multi-use turf areas.

“Special use areas” means a publicly-owned park or recreation area as defined and described in the parks and recreation master plan and may include unique or special uses such as sculpture parks.

18.32.030 Uses permitted by right.

All uses permitted by right and set forth in this section shall be subject to the site plan requirements of Chapter 18.46. The following uses are permitted by right in a PP district:

- A. Any community park, regional park, and recreational facilities use that does not have sport lighting over forty feet in height and is not located within five hundred feet of a residentially-zoned or occupied area;
- B. Neighborhood parks;
- C. School recreation areas;
- D. Special use areas;
- E. Open lands/natural areas;
- F. Recreational trail;
- G. Accessory buildings or uses that are reasonably required to provide maintenance or security for the principal use; and
- H. Antennas, as defined in Section 18.55.020, proposed to be located on an existing tower, as defined in Section 18.55.020 in compliance with the provisions of Chapter 18.55.

18.32.040 Uses permitted by special review.

The following uses are permitted by special review in a PP district:

- A. Any community park, regional park, and recreational facilities use that does not meet the criteria as a use by right set forth in Section 18.32.030.A;
- B. Golf course;
- C. Cemetery or memorial garden; and
- D. Except as provided in Section 18.36.010., personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55.

18.32.050 Site development plan review.

Development of any use in a PP district shall be subject to the provisions of Chapters 18.39 and 18.46 and to the design standards and guidelines specified in Chapter 18.47.

18.32.060 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54.

18.32.070 Off-street parking area.

The minimum off-street parking area for all permitted uses in a PP district shall be as provided in Chapter 18.42.

Chapter 18.36

I DISTRICT-DEVELOPING INDUSTRIAL DISTRICT

Sections:

18.36.000	Purpose.
18.36.010	Uses permitted by right.
18.36.020	Uses permitted by special review.
18.36.025	Site development plan review.
18.36.030	Lot area.
18.36.040	Yards.
18.36.045	Height limitations.
18.36.050	Off-street parking area.
18.36.060	Special review performance standards.
18.36.070	Open space.
18.36.080	Applicability.

18.36.000 Purpose.

The developing industrial (I) district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distribution, and a wide range of commercial and higher intensity industrial operations. The I District is intended to implement the industrial category as depicted on the Comprehensive Master Plan Land Use Plan Map. The I district also accommodates complementary and supporting uses such as convenience shopping centers and appropriately located accessory commercial child day care centers. Locations for the I district require good access to major arterial streets.

18.36.010 Uses permitted by right.

The following uses are permitted by right in an I district:

- A. Administrative, insurance and research facilities;
- B. Experimental or testing laboratories;
- C. Manufacturing, assembly or packaging of products from previously prepared materials;
- D. Manufacture of electric or electronic instruments and devices;
- E. Manufacture and preparation of food products;
- F. Warehouses, distribution and wholesale uses;
- G. Any industrial or manufacturing use similar in character and external effects to above uses;
- H. Utility service facilities;
- I. Retail and wholesale sales of products produced on site or products incidental to such products, provided such use is incidental to the primary manufacturing use;
- J. Minor recycling processing facilities;
- K. Accessory uses which are reasonably required to provide necessary maintenance or security of the principal use, including, a dwelling unit for occupancy as a caretaker's quarters or for occupancy by the business or property owner;
- L. Accessory buildings and uses including commercial child day care centers when incorporated as part of a development project and compatible with surrounding uses;
- M. Antennas, as defined in Section 18.55.020, located on an existing tower or structure as provided in Section 18.55.030 and meeting all other requirements of Chapter 18.55;
- N. Art gallery, studio, and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other

art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40.

- O. Bar or tavern;
- P. Car wash;
- Q. Clubs and lodges;
- R. Convention and conference center;
- S. Domestic animal day care facility;
- T. Food catering;
- U. Funeral home;
- V. Greenhouse;
- W. Health care service facility;
- X. Indoor recreation;
- Y. Light industrial;
- Z. Lodging establishments (hotel and motel);
- AA. Lumber yards with outdoor storage screened as required by Section 4.06 of Site Development Performance Standards and Guidelines;
- BB. Parking garage and parking lot;
- CC. Personal and business service shop;
- DD. Place of worship or assembly;
- EE. Special trade contractor's shop (any outdoor storage screened as required by Section 4.06 of the Site Development Performance Standards and Guidelines);
- FF. Medical or professional office/clinic;
- GG. Office, general administrative;
- HH. Outdoor storage subject to Section 4.06 of the Site Development Performance Standards and Guidelines;
- II. Restaurant, standard;
- JJ. Retail store;
- KK. Self-service storage facility;
- LL. Vehicle minor and major repair, servicing, and maintenance;
- MM. Vehicle rentals for cars, light trucks and light equipment;
- NN. Vehicle rentals for heavy equipment, large trucks and trailers;
- OO. Vehicle sales and leasing for cars and light trucks;
- PP. Sales and leasing of farm equipment, mobile homes, recreational vehicles, large trucks and boats with outdoor storage;
- QQ. Veterinary facility, clinic, or hospital;
- RR. Workshop and custom small industry. Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40;
- SS. Crematorium located more than five hundred feet, as measured by a straight line, from any property boundary zoned R1, R1e, R2, R3, R3e, or located more than five hundred feet from any residential property within a planned unit development, subject to Section 18.52.080; and
- TT. Firing range, indoor.

18.36.020 Uses permitted by special review.

The following uses are permitted by special review in an I district subject to the provisions of Chapter 18.40:

- A. Any business, commercial, industrial, or manufacturing use which by virtue of its site, location, traffic, or other external impacts, as determined by the development director, warrants exceptional review and public hearing, as set forth in Chapter 18.40;
- B. Parks and recreation areas;

- C. Community facility;
- D. Major recycling processing facilities;
- E. Personal wireless service facility as defined in Section 18.55.020, located on a new structure, meeting all requirements of Chapter 18.55;
- F. Sexually oriented businesses;
- G. Essential public utility uses, facilities, services, and structures (above ground);
- H. Heavy industrial use;
- I. Open-air farmers market;
- J. Plant nursery;
- K. Kennel;
- L. Truck stop;
- M. Junkyard;
- N. Packing facility;
- O. Recycling collection facility, attended;
- P. Recycling collection facility, unattended;
- Q. Resource extraction, process, and sales;
- R. Restaurant, drive-in or fast food;
- S. Airport and heliport;
- T. Jails, detention, and penal centers;
- U. Crematorium located five hundred feet or less, as measured by a straight line, from any property boundary zoned R1, R1e, R2, R3, R3e, or located five hundred feet or less from any residential property within a planned unit development, subject to Section 18.52.080; and
- V. Safety training facility.

18.36.025 Site development plan review.

Development of any use within the I district shall be subject to the provisions of Chapters 18.39 and 18.46, and to the design standards and guidelines specified in chapter 18.47.

18.36.030 Lot area.

The minimum area of lot in an I district shall be two times the total floor area of the building.

18.36.040 Yards.

The minimum yards in an I district, being the minimum distance of any building from an alley, street, or zoning district line, shall be twenty-five feet.

18.36.045 Height limitations.

Buildings and structures in an I district shall comply with Chapter 18.54.

18.36.050 Off-street parking area.

The minimum off-street parking area for all permitted uses in an I district shall be as provided in Chapter 18.42.

18.36.060 Special review performance standards.

Uses permitted by special review within an I district shall be subject to the performance standards set forth in Section 18.46.020.

18.36.070 Open space.

The open space in an I district, exclusive of streets and off-street parking areas, shall be not less than ten percent of the total lot area.

18.36.080 Applicability.

Compliance with Section 18.36.025 for a use permitted by right under Section 18.36.010 shall satisfy any requirement imposed upon the annexation of any property prior to October 1, 1980, requiring compliance with special review provisions of this Code for any use thereon.

Chapter 18.38

DR DISTRICT-DEVELOPING RESOURCE DISTRICT

Sections:

18.38.005	Purpose.
18.38.010	Uses permitted by right.
18.38.020	Uses permitted by special review.

18.38.005 Purpose.

The purpose of the developing resource district is to provide a zoning designation for property that is being annexed into the city, but for which there are no specific or imminent plans for development or when permanent open space is intended. Specified non-urban uses are available through the special review process.

18.38.010 Uses permitted by right.

There are no uses permitted by right in a developing resource (DR) district.

18.38.020 Uses permitted by special review.

The following uses are permitted by special review in a DR district:

- A. Farm and garden uses only for the raising of crops, provided that no permanent structures are erected thereon that permanently preclude the extraction of commercial mineral deposits by an extractor from the land subject to said use;
- B. Stands for the sale of agricultural products produced on the premises, provided that no permanent structures are erected thereon that permanently preclude the extraction of commercial mineral deposits by an extractor from the land subject to said use;
- C. Greenhouses, turf and sod farms, and nurseries, provided that sales are limited to products produced on the premises, and further provided that no permanent structures are erected thereon that permanently preclude the extraction of commercial mineral deposits by an extractor from the land subject to said use;
- D. Garden supply centers operated in conjunction with a nursery or greenhouse, provided that no permanent structures are erected thereon that permanently preclude the extraction of commercial mineral deposits by an extractor from the land subject to said use;
- E. The extraction of limestone used for construction purposes, coal, sand, gravel, and quarry aggregate, provided that all mining, extracting and quarrying is in conformance with any master plan for extraction adopted by the city; and further provided, dust, fumes, odors, smoke, vapor, noise, and vibration shall be confined within the property boundary lines;
- F. Essential public utility and public service installations and facilities for the protection and welfare of the surrounding areas, provided that business offices or repair facilities are not included, and further provided that no permanent structures are erected thereon that permanently preclude the extraction of commercial mineral deposits by an extractor from the land subject to said use;
- G. Publicly-owned parks, recreation areas, golf courses, and storm water detention facilities, provided that no structures are erected thereon that permanently preclude the extraction of commercial mineral deposits by an extractor from the land subject to said use;
- H. Oil, gas, and other hydrocarbon well drilling and production; and
- I. Personal wireless service facilities as defined in Section 18.55.020, in compliance with Chapter 18.55.

18.38.030 Site development plan review.

Restoration, alteration, or expansion of permitted uses in the DR district shall be subject to the limitations of Chapter 18.56. Any category 2 development in the DR district shall be subject to the provisions of Chapters 18.39 and 18.46, and to the standards and guidelines specified in Chapter 18.47.

Chapter 18.39

DEVELOPMENT APPLICATION PROCESS AND PROCEDURES

Sections:

- 18.39.010 Purpose.**
- 18.39.020 Applicability and restrictions.**
- 18.39.030 Submittal checklists.**
- 18.39.040 Concept review.**
- 18.39.050 Submittal and review of development applications.**
- 18.39.060 Closure of a development application.**

18.39.010 Purpose.

The purpose of this chapter is to establish the general requirements, process, and procedures for submittal, review, and approval of all development applications.

18.39.020 Applicability and restrictions.

- A. This chapter shall apply to all development applications.
- B. This chapter shall not apply to building permit applications for category 1 development.
- C. Unless otherwise provided in this chapter, no formal action may be undertaken by the city on a category 2 development application, and no category 2 development may commence or continue on any property within the city, until the provisions of this chapter have been met.

18.39.030 Submittal checklists.

The current planning manager is hereby authorized to create, modify, or discontinue any submittal checklist for development applications as deemed necessary for the implementation of this title.

18.39.040 Concept review.

- A. The purpose of concept review is to provide applicants with information on required content, process, and applicable development standards pertaining to a proposed development application.
- B. A concept review meeting with the development review team is required prior to submittal of a formal development application. The concept review meeting may be waived if the current planning manager determines that, based on the nature and scope of the proposed development application, the meeting would not serve a useful purpose.
- C. Prior to scheduling a concept review meeting with the development review team, an application must be submitted to the current planning division and a determination must be made by the current planning manager that the application contains the required information set forth in the applicable submittal checklist. The current planning manager may waive informational requirements based on the nature of the development proposal.
- D. Information provided to the applicant by the city as part of a concept review meeting is preliminary in nature and scope, and no review comments, written or verbal, shall establish any vested right or approval for development, or exemption from the Code.

18.39.050 Submittal and review of development applications.

- A. Determination of reviewable application.

1. All development applications shall be submitted to the current planning division and shall include all information as specified in the applicable submittal checklists, unless waived by the development review team or current planning manager. Each development application shall include payment of the applicable application fees as established by council.
 2. The director may require any applicant for a development application to reimburse the city for costs incurred by the city for consultant fees when it is necessary to refer an application to any legal, technical, or other specialist in conjunction with review of the application.
 3. All applications shall be signed by the owner of the land subject to the application. Where ownership is held by two or more owners, as joint tenants or as tenants in common, the application may be signed by only one joint tenant or tenant in common. The names and mailing addresses of all other owners shall be noted on the application, with an indication that the applicant is their designated representative.
 4. Upon submittal, the current planning manager, in consultation with the development review team, shall determine if the application is reviewable. If the current planning manager determines that the application is reviewable, the application shall be scheduled for formal review. If the current planning manager determines that the submittal is not reviewable, the city shall provide written comments describing deficiencies in the application that must be revised before it can be accepted for formal review. No further review by the city will commence until the application is revised by the applicant, resubmitted to the current planning division, and determined by the current planning manager to be reviewable.
 5. Any applicant who is aggrieved by a decision of the current planning manager as to whether an application is reviewable may appeal the decision to the director. Within five days of receiving a written appeal, the director must render a written decision and provide it to the applicant. The director's decision may be further appealed to the planning commission pursuant to Chapter 18.80.
- B. Review by the development review team.
1. The development review team shall review the application on the basis of all standard applicable codes to determine if the application is complete. The development review team shall prepare comments indicating the results of their review. The current planning manager shall forward the development review team review comments to the applicant in a timely manner.
 - a. If the development review team comments indicate that the application is complete, the applicant shall be notified of the subsequent procedures necessary for the application to receive formal approval by the City, as set forth in the other applicable provisions of Titles 16, 17, and 18, including any required meetings or public hearings, any required neighborhood notices or public notices, and any appeal procedures applicable to the type of application under review.
 - b. If the development review team comments indicate that the application is not complete, the applicant shall be notified that the application is not complete and that revisions and further development review team review is required. The applicant shall revise the application, and resubmit it to the current planning division for further development review team review.
 - c. If the applicant believes that the revisions described in the development review team comments are not necessary to comply with the applicable standard codes of the city, written request may be submitted to the current planning manager requesting that the application be moved forward without completing further revisions. The request shall include written justification describing the basis for the request related to each matter not revised. Upon submittal of the written request, the current planning manager shall render a written decision with five working days, either approving the request, approving it with

- conditions, or denying the request. The applicant may appeal the decision of the current planning manager to the planning commission pursuant to Chapter 18.80.
2. Pursuant to Chapter 18.46, the development review team may determine that the site development application is sufficiently complete to allow initial submittal of a building permit application for the property.
 3. Notwithstanding the provisions of Section 18.39.040B.1. and any other applicable provisions of this Code, and if agreed upon by the applicant and the current planning manager, any required neighborhood meetings that would normally be part of the subsequent process for the application type, may be held prior to a development review team determination that the application is complete. This determination shall not remove or diminish the requirement for further review by the development review team following the neighborhood meeting.
- C. Development review team meetings. Upon consultation with the development review team, the current planning manager may schedule a meeting with the applicant and their consulting team in order to clarify city requirements and to resolve design issues so that the application can move forward to completion.

18.39.060 Closure of a development application.

- A. In the development review process, it is expected that the city and the applicant perform in a diligent manner, working to bring submitted applications to a timely completion.
1. At any point in the application process where the applicant has not provided a required resubmittal or has not provided other pertinent information or materials for a period of twelve months that would substantially address the next step in the development review process, the current planning manager may initiate procedures to close the application. Prior to closing the application, the current planning manager shall provide a mailed notice informing the applicant of the necessary information and materials needed to complete the next step of the application process and indicating that this material must be received by the current planning office within sixty days from the date of the mailed notice or the application will be closed. If the application is closed, no further review shall be undertaken by the city unless a new application is submitted in accordance with the procedures set forth in this chapter, including payment of applicable application fees.
 2. Any application, except an application for property that is zoned planned unit development, must receive final action by the city within thirty-six months from the date it was determined to be reviewable. All applications that fail to meet this timeframe may be closed without notice unless the applicant submits a written extension request prior to the expiration date that is approved by the planning commission.

Chapter 18.40

USES PERMITTED BY SPECIAL REVIEW

Sections:

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18.40.025	Group care facilities.
18.40.027	Sexually oriented businesses.
18.40.030	Procedures and fees for securing approval of a special review application.
18.40.040	Effect of special review approval.
18.40.050	Modifications.
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18.40.060	Termination of special review.

18.40.005 Allowed when.

Uses permitted by special review are allowed in the designated districts upon issuance by the city of a type 2 or type 3 zoning permit. No person has a right or entitlement to a use by special review; rather, whenever in the reasonable judgment of the current planning division, the planning commission, or council, as is applicable, it is determined that a special review use cannot be subject to conditions or restrictions that will permit the special review use to be consistent with the purposes of zoning as set forth in Section 18.04.010 or for the use to be compatible with the surrounding uses of property, an application for such special review use shall be denied. Whether approval of the proposed special review use will be consistent with the purposes set forth in Section 18.04.010 or compatible with the surrounding uses of property shall be based upon an analysis of the factors listed in Section 18.40.015 and whether the possible conditions and restrictions on the proposed use can adequately mitigate the off-site impacts of the proposed use on surrounding properties and on the public and any adverse environmental impacts that might result from approval of the proposed special review use.

18.40.010 Definitions.

As used in this chapter:

- A. "Neighborhood" as used in this chapter, is comprised of all properties which fall within the distances specified in Table 18.05-2 in Section 18.05.030(C)(2), except for the neighborhood surrounding an application for special review of a sexually oriented business or a crematorium. The "neighborhood" for an application for special review of a sexually oriented business shall be comprised of all properties within blocks which fall wholly or partially within a three-thousand foot radius of all boundaries of the property under application. The "neighborhood" for an application for special review of a crematorium shall be comprised of all properties within blocks which fall wholly or partially within a five-hundred foot radius of all boundaries of the property under application.

18.40.015 Purpose and restrictions.

- A. The purpose of allowing certain uses in a zoning district only upon issuance of a type 2 or type 3 zoning permit is to allow the city the opportunity to determine if the proposed use will be compatible with the surrounding uses of property. As part of its determination, the city may impose special restrictions and conditions, in conjunction with such uses, as deemed necessary, to insure that the purposes set forth in Section 18.04.010 will be met by the proposed use, that the effects of such uses on the surrounding neighborhood and the public in general will be

ameliorated, and that the proposed use may therefore be allowed in a zoning district where it may otherwise be inappropriate and incompatible if such restrictions or conditions were not imposed. To such end, restrictions or conditions more or less strict than those set forth generally for each zoning district may be imposed by the city as a condition of approval of any special review. At a minimum, the following matters shall be considered:

1. Type, size, amount, and placement of landscaping;
 2. Height, size, placement, and number of signs;
 3. Use, location, number, height, size, architectural design, material, and color of buildings;
 4. Configuration and placement of vehicular and pedestrian access and circulation;
 5. Amount and configuration of off-street parking;
 6. Amount, placement, and intensity of lighting;
 7. Hours of operation; and
 8. Emissions of noise, dust, fumes, glare and other pollutants.
- B. Except as varied in accordance with this chapter, the restrictions and regulations set forth for the zoning district or districts in which the special review use is located and the provisions of this Code shall continue to apply to such use.

18.40.020 Application requirements.

Application for a use permitted by special review shall conform with the following provisions and the provisions of Chapter 16.08:

- A. Written documents. All required forms and supporting documents for a use permitted by special review shall be submitted in writing to the current planning division.
1. The application form for a special review shall be filed on forms provided by the city. The application for special review shall be signed by a property owner of the land described therein.
 2. All applications for special review shall be accompanied by a certified list of the owners of all properties within a neighborhood as defined in Section 18.40.010A.
 3. There shall be filed with each special review application a title commitment for all properties included in the application. The report shall be prepared by a title company or an attorney and shall be dated no more than sixty days prior to the date of filing the application with the current planning division.
 4. There shall be filed with each special review application a project narrative describing the proposed uses(s) and the expected impacts to the city and neighborhood resulting from the proposed use. This report shall address each matter of consideration as set forth in Section 18.40.015A. through H., and shall also describe how, and to what extent, the proposed use(s) and the project design will be in keeping with the purposes of the zoning code, as set forth in Section 18.04.010 and with all other city policies, codes, standards, and guidelines.
 5. Whenever the provisions of this chapter or state law require the mailing or posting of notice, all required notice shall be provided pursuant to Chapter 18.05.
- B. Site plan and supporting documents.
1. There shall be filed with each special review application a site plan prepared by a qualified planner, urban designer, landscape architect, architect, engineer, land surveyor, or other professional experienced in the preparation of site plans.
 2. The special review site plan shall meet the requirements of Section 1.05 of the Site Development Performance Standards and Guidelines.
 3. The site plan shall show thereon the date or dates that each phase of the development included in the site plan will be completed.
 4. The owners and lienholders of the real property described in the application for special review shall sign the site plan.

5. The city may require other material as necessary to evaluate the application for compliance with city standards.

18.40.025 Group care facilities.

In addition to all other requirements and provisions of this Code, no group care facility shall be approved if it is located within one thousand five hundred feet, as measured by a straight line, of another group care facility; provided, however, that an exception can be made if the facilities are separated by a physical barrier such as an arterial street or lake, commercial district, a topographical change, or other conditions that mitigate the need for dispersing these facilities. No application for special review for a group care facility meeting the provisions of Subsections A. and B. of Section 18.04.183, that otherwise meets all other requirements and provisions of this Code shall be denied solely because of the nature of the services to be provided or the type of persons proposed to be housed therein.

18.40.027 Sexually oriented businesses.

In addition to all other requirements and provisions of this Code, no application for special review for a sexually oriented business shall be approved if the sexually oriented business is located within one thousand five hundred feet of another sexually oriented business, place of worship or assembly, school, boundary of a residential district, licensed daycare facility, or park pursuant to Section 18.76.010, as measured pursuant to Section 18.76.020. No application for special review for a sexually oriented business which otherwise meets all other requirements and provisions of this chapter, shall be denied solely because of the nature of the sexually oriented business.

18.40.030 Procedures and fees for securing approval of a special review application.

- A. The applicant shall attend a concept review meeting prior to submitting a formal application in order to become more familiar with the city's special review and site development plan requirements and procedures.
- B. All applications for special review shall be accompanied by the special review checklist provided by the city.
- C. All applications for special review may be filed with the current planning division within six months of the concept review meeting unless expressly allowed by the current planning manager.
- D. All persons filing applications as provided herein shall be charged a fee in an amount set by resolution of council.
- E. The special review application shall be referred by the current planning division to all affected city departments, utilities and other agencies for review and comment. The city shall review the application for compliance with the provisions of the Municipal Code and other adopted regulations, plans, standards and policies of the city.
- F. Within a reasonable time period following the submittal of a special review application, the applicant and the current planning division shall set a neighborhood meeting date and notice shall be provided in accordance with Chapter 18.05. The objective of the neighborhood meeting is to inform the neighborhood of the scope and nature of the project and to reach an agreement between the applicant and the city as to the location, extent and nature of improvements and any conditions or restrictions necessary to adequately mitigate the impacts of the project on the neighborhood and on the public in general; as well provide for harmonious and aesthetic development.
- G. Within seven working days after the neighborhood meeting, the current planning division shall formulate a preliminary written statement of findings as to whether or not the proposed use is or can be made compatible with the surrounding uses of property, and whether an agreement has been reached between the applicant and the city, relative to the location, the extent and the nature of improvements, along with any conditions, restrictions or modifications to the project which

have been determined as necessary by the city to insure that the purposes of Section 18.04.010 will be met by the proposed use, and to insure that the proposed development will be compatible. If the current planning division has not found that the proposed use is, or can be made compatible, with conditions, restrictions or modifications which are acceptable to the applicant, it shall include in the statement of findings that a recommendation of denial has been made. The statement of preliminary findings shall be posted at the current planning division offices and the applicant, the neighborhood and all persons in attendance at the neighborhood meeting shall have seven working days from the date of completion of the preliminary findings to review the statement and to make comment. The planning division will issue its final findings and agreement after considering comments from the applicant, the neighborhood or others in attendance at the neighborhood meeting.

- H. If, on the basis of the neighborhood meeting and the written statement of findings, the city has determined that the use is or can be made compatible and that an agreement has been reached between the applicant and the city, no public hearing shall be required before the planning commission. The current planning division shall approve the application and issue a type 2 zoning permit at the end of the appeal period as stated in 18.40.055A. which stipulates the location, extent and nature of improvements required along with any conditions, restrictions, or modifications found to be necessary by the city. A copy of the type 2 zoning permit shall be posted at the planning office during the appeal period. If the type 2 zoning permit is to be issued for a master sketch plan, a detailed site plan pursuant to the site development performance standards and guidelines shall be required and administratively reviewed and approved prior to commencement of any grading or construction. The detailed site plan must be in substantial compliance with the approved master sketch plan. If the detailed site plan is not in substantial compliance with the approved master sketch plan, a new application for special review shall be required.
- I. If the city has determined that the proposed use is not or cannot be made compatible with the surrounding uses of property or if an agreement has not been reached between the applicant and the city, the current planning division shall make a determination that a type 3 zoning permit is required, and the special review application shall be referred to the planning commission for public hearing.
- J. Before the planning commission considers any application filed as provided in this chapter, all neighborhood property owners and those persons in attendance at the neighborhood meeting shall be notified of the type 3 zoning permit determination and the planning commission public hearing date. All required notice shall be provided pursuant to Chapter 18.05.
- K. The planning commission, at a duly noticed public hearing, shall consider the special review application, and the findings and recommendations of the planning staff and correspondence. The planning commission shall review the application for compliance with the provisions of this Code and other adopted regulations, the compatibility of the application with the character of the surrounding neighborhood and adverse environmental influences that might result from approval of the application. The planning commission may either approve, approve with modifications or conditions or deny the application.
- L. Following approval of the application by the planning commission, and upon completion of all additions or modifications to the application as required by the planning commission, the current planning division shall issue a type 3 zoning permit at the end of the appeal period as stated in Section 18.40.055A. which stipulates the location, extent, and nature of improvements required along with any conditions, restrictions, or modifications. A copy of the type 3 zoning permit shall be posted at the planning office during the appeal period. If the type 3 zoning permit is to be issued for a master sketch plan, a detailed site plan pursuant to the Site Development Performance Standards and Guidelines shall be required and administratively reviewed and

approved prior to commencement of any grading or construction. The detailed site plan must be in substantial compliance with the approved master sketch plan. If the detailed site plan is not in substantial compliance with the approved master sketch plan, a new application for special review shall be required.

18.40.040 Effect of special review approval.

Following issuance of a type 2 or type 3 zoning permit, all real property described in the application must be improved, developed and used in accordance with the approved zoning permit, the site plan and any written proposals submitted therewith within three years of the date of issuance. Development of any use approved as a type 2 or type 3 zoning permit shall be subject to the provisions of Chapters 18.39, 18.46 and 18.47, and shall comply with all other applicable codes and ordinances of the city, except as otherwise approved as part of the type 2 or type 3 zoning permit. Any changes or modifications to the type 2 or type 3 zoning permit shall be permitted only in accordance with the procedures stated in Section 18.40.050. It is unlawful for the owner of any property subject to an approved type 2 or type 3 zoning permit to fail to complete all improvements within the approved completion date or dates set by the city, or to use the property for any use not set forth in an approved type 2 or type 3 zoning permit, except for a use by right within the zoning district in which the property is located, and in conformance with Chapters 18.46 and 18.47 and other codes and ordinances of the city. Each day of violation shall be considered as a separate violation of the provisions of this chapter.

18.40.050 Modifications.

An approved type 2 or type 3 zoning permit and site plan may be modified in the following manner:

- A. A modification in the character, use, intensity or density of an approved type 2 or type 3 zoning permit or site plan shall be subject to the same procedures used for approval of the type 2 or type 3 zoning permit.
- B. All other modifications shall be subject to the following minor amendment procedure:
 1. The applicant shall submit to the current planning division a completed application form and the site plan which identifies the proposed modifications.
 2. The planning division shall review the proposed modifications and prepare a staff report recommending approval, conditional approval or denial of the proposed modifications.
 3. The current planning division may administratively approve a modification to an approved type 2 or type 3 zoning permit if it can be determined that the proposed modification will not substantially alter the character of the approved development, increase the intensity of the use, increase the impact on nearby properties, affect any previously approved agreement between the applicant and the city or modify a condition or restriction placed on the permit by the city.
 4. During the review of the proposed modifications the following criteria shall be given consideration:
 - a. Will the proposed modifications alter the character, use or density of the approved type 2 or type 3 zoning permit or site plan?
 - b. Will the proposed modifications to the approved type 2 or type 3 zoning permit and site plan be detrimental to the public health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity?
 - c. Will the proposed modifications to the approved type 2 or type 3 zoning permit and site plan comply with the regulations and standards specified in this Code?
 5. Approval of a minor amendment does not require notice. A written record of all such modifications shall be maintained in the records of the current planning division pertaining to the original type 2 or type 3 zoning permit and site plan being modified. An original and two

copies of the site plan, meeting the specifications of Section 18.40.020B., shall be filed by the applicant with the current planning division prior to initiation of the proposed modifications or the issuance of a building permit to initiate such modifications.

- C. The current planning division, following the procedures outlined in Section 18.40.050B., may authorize an extension of the time schedule for the completion of the improvements.
 - 1. During the review of the proposed time extension, the following criteria shall be given consideration:
 - a. Have there been changes in the physical, economic or other conditions of the site or vicinity which were not adequately addressed in the original special review and which pose a potential impact on existing and future land uses in the area?
 - b. Have there been changes in the character of the neighborhood or surrounding areas which were not adequately addressed in the original special review?
 - c. Have there been changes in the regulations and requirements specified in the Code which should be addressed prior to the development of the site?
 - d. Were there mistakes or oversights in the original review of the application that should be addressed prior to the development of the site?
 - e. Will the granting of an extension be detrimental to the public health, safety or general welfare?
 - 2. Any applicant may request that the proposed time extension be reviewed and considered at a public hearing before the planning commission.
- D. The city may impose additional conditions and may amend conditions of the original approval in conjunction with any modification or extension.

18.40.055 Appeal of an administrative or planning commission final decision.

- A. Appeal of administrative decision.
 - 1. Any party-in-interest as defined in Chapter 18.80 may appeal to the planning commission a final decision of the current planning division on a type 2 zoning permit in accordance with the procedures set forth in Chapter 18.80 so long as the appeal is filed within ten days of the mailing of a notice from the current planning division office that a type 2 zoning permit will be issued.
 - 2. Upon the filing of an appeal, the permit application shall be suspended pending conclusion of the appeal process. The appeal shall be scheduled for a public hearing in accordance with Chapter 18.80, at which time the applicant shall have the burden of proving that the applicant is entitled to a permit under the standards set forth in Sections 18.40.030K. and 18.40.005.
 - 3. Following the close of the public hearing, the planning commission may deny the application for a special review permit or direct the current planning division to issue a type 3 zoning permit with or without restrictions or conditions as the planning commission deems appropriate. If the applicant fails to object to any condition or restriction on the record, the applicant shall be deemed to have agreed with such condition or restriction.
- B. Appeal of planning commission decision.
 - 1. Any party-in-interest as defined in Chapter 18.80, may appeal a final decision of the planning commission to council in accordance with the procedures set forth in Chapter 18.80, within ten days following the planning commission's final decision.
 - 2. If council determines that a decision to deny a type 3 zoning permit should be reversed, council shall direct the current planning division to issue a type 3 zoning permit with or without restrictions or conditions as the council deems appropriate. If the applicant fails to object to any condition or restriction on the record, the applicant shall be deemed to have agreed with such condition or restriction. If council determines that a decision to issue a type 3 zoning permit should be reversed, no such permit shall be issued and the application shall

be denied. If council determines that certain conditions or restrictions should or should not have been imposed upon the type 3 zoning permit, it shall direct the current planning division to issue the type 3 zoning permit subject to a modification in the conditions or restrictions. If council determines that the conditions and restrictions should remain as provided by the planning commission, then it shall direct the current planning division to issue the type 3 zoning permit without modification. In making its decision on the appeal, council shall consider the standards in Sections 18.40.030K. and 18.40.005.

18.40.060 Termination of special review.

An approved type 2 or type 3 zoning permit shall be terminated as follows:

- A. If construction of all improvements is not completed and if the special review use is not established within three years of the date of approval or other completion date or dates as specified in a development agreement approved by the city, the permit and site plan shall be considered abandoned and shall be null and void.
- B. If the use authorized by the permit and site plan shall cease for any reason for a period of twelve months, the use shall be considered abandoned and the approved special review permit and site plan shall be null and void.
- C. If the certified property owner list and mailing labels as described in Section 18.05.040 are found to be substantially in error by the current planning division, the permit and site plan shall be null and void.

Chapter 18.41

PLANNED UNIT DEVELOPMENT ZONE DISTRICT REQUIREMENTS AND PROCEDURES

Sections:

18.41.010	Purpose.
18.41.020	Objectives of planned unit development.
18.41.030	Applicability.
18.41.040	Permitted uses within a planned unit development - Density and intensity of development.
18.41.050	Procedures for approval of a planned unit development.
18.41.054	Site development plan review.
18.41.070	Other regulations.
18.41.080	Combined applications.
18.41.100	Exemptions and waivers.
18.41.110	Definitions.

18.41.010 Purpose.

The planned unit development zoning district provides procedures by which land areas in the city can be uniquely zoned and developed to meet the needs of the city, property owners, residents and developers, and encourage flexibility and innovative design of residential, commercial and industrial development and to provide an alternative to compliance with conventional zoning and subdivision regulations. It is also the intent of council to exercise all powers authorized by the Planned Unit Development Act of 1972, C.R.S. 24-67-101 to -108, and to that end, the powers and duties therein granted to municipalities are incorporated herein by this reference as if set forth fully.

18.41.020 Objectives of planned unit development.

Objectives to be achieved through a planned unit development as that term is defined in Chapter 18.04 are:

- A. To provide for necessary commercial, recreational, and educational facilities conveniently located to housing;
- B. To provide for well-located, clean, safe, and pleasant industrial sites involving a minimum of strain on transportation facilities;
- C. To encourage that the provisions of the zoning laws which direct the uniform treatment of dwelling type, bulk, density, and open space within each zoning district will not be applied to the development of multi-lot projects;
- D. To encourage innovation in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings;
- E. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may inure to the benefit of those who need homes;
- F. To lessen the burden of traffic on streets and highways;
- G. To encourage the building of new developments incorporating the best features of modern design;
- H. To conserve the value of the land;

- I. To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics;
- J. To encourage integrated planning in order to achieve the above purposes; and
- K. To encourage a land use pattern that supports the cost effective delivery of public services and facilities.

18.41.030 Applicability.

No planned unit development may be approved without the consent of the owner of the land subject to the planned unit development. The owner of any land may apply for approval of a planned unit development; however, council shall have discretion as guided by the standards set forth in this chapter to approve, conditionally approve, or deny an application for planned unit development approval. No person may develop any property subject to a master plan for a unit development approved prior to June 1, 1993, and for which no preliminary and final development plans have been approved, unless such person first applies for and receives approval of a general, preliminary and final development plan, as are applicable, pursuant to the approval procedures and criteria contained in this chapter. This requirement shall not apply to master plans for unit developments that have acquired vested property rights pursuant to state law or pursuant to development agreements entered into between the developer of the unit development and the city.

18.41.040 Permitted uses within a planned unit development - Density and intensity of development.

- A. Any combination of uses may be permitted in a planned unit development so long as council determines that such uses are compatible with one another and with the property that could reasonably be impacted by the development of any proposed planned unit development. Compatibility shall be determined based on the extent to which any proposed use of land within the planned unit development would unreasonably interfere with the use and enjoyment of any other use of land within the planned unit development. Factors which may be considered include the type and intensity of uses, the extent to which uses complement one another, the bulk of structures associated with use, and the noise, light, traffic, vibrations, and other similar external impacts associated with each use.
- B. The density and/or intensity of development shall be based on the capacity of the land proposed for development to support the planned unit development as well as the impact of the proposed development on city services and facilities and on neighboring property that reasonably could be impacted by the proposed development. Capacity of the land shall be determined based on the size, topography, and geological and environmental limitations of the land proposed for development. Notwithstanding the foregoing, residential development shall not exceed a gross density of sixteen units per acre; commercial development shall not exceed a floor area ratio of 0.5; office development shall not exceed a floor area ratio of 4.0; industrial development shall not exceed a floor area ratio of 1.0. In a mixed use planned unit development, the gross density shall be calculated based on the gross land area devoted to each type of use.

18.41.050 Procedures for approval of a planned unit development.

- A. Plan requirements. All planned unit developments to be developed in phases shall require a general development plan, preliminary development plan, and final development plan. Planned unit developments that consist of only one phase shall require a preliminary development plan and final development plan.
- B. Conceptual review conference. Prior to submittal of a formal planned unit development application, or a preliminary development plan application when no general development plan is

required, the applicant shall arrange for and attend a conceptual review conference with the conceptual review team and present a sketch plan for review and comment. The applicant shall provide ten copies of the sketch plan to permit interdepartmental review. Within ten days following the conceptual review conference, the current planning division shall advise the applicant whether or not the proposed planned unit development complies with state and local law, provide the applicant with suggestions and comments concerning the proposed planned unit development and shall provide the applicant with a submittal checklist and statement of procedures for planned unit development approval. If the current planning division determines that the proposed development appears to meet the requirements of local, state and federal law, the current planning division shall issue to the applicant a notice to proceed with planned unit development. No applicant may submit a general development plan, or a preliminary development plan when a general development plan is not required, for government approval, unless the applicant has received such notice. The notice to proceed with planned unit development shall be valid for a period of six months from the date of issuance, after which the applicant may not submit any general development plan or preliminary development plan when no general development plan is required unless, as may be required by the current planning division, the applicant attends a new conceptual review conference and resubmits all materials as may be required by the current planning division if it wishes to proceed with the planned unit development. Developers should use the services of certified land planners, registered architects, or landscape architects, in addition to the project engineer, and consult with the current planning division early in and throughout the approval process.

- C. Application requirements. A formal application for approval consists of a general development plan for any planned unit development proposed to be developed in phases, and a preliminary development plan and final development plan for each phase of the planned unit development, all of which comply with the submittal requirements set forth in this chapter. Every plan submitted shall be accompanied by the following materials:
1. Original plus one copy of the completed submittal checklists obtained from current planning division;
 2. List of all property owners within the radius distances specified in Table A in Section 16.16.030B.1.b.(ii);
 3. Original plus six submittal information forms;
 4. Eight and one-half by eleven inch vicinity map;
 5. Preliminary drainage report; and
 6. Filing fee.
- D. General development plan approval.
1. The general development plan shall be submitted to the current planning division. The current planning division will review the general development plan and make a recommendation to the planning commission as to whether the general development plan should be approved, approved with conditions or disapproved.
 2. In addition to the submittal requirements for all plans, the following materials shall be submitted:
 - a. Twenty copies of the general development plan and one eleven by seventeen inch reduced copy of the general development plan;
 - b. An affidavit certifying that the applicant conducted a neighborhood meeting in accordance with the following requirements:
 - i. All neighborhood property owners, as defined in Section 16.16.030B.1.b.(ii), were notified and a neighborhood meeting conducted by the applicant;

- ii. At least ten days prior to the neighborhood meeting the applicant, by first class mail, sent a written notice of the neighborhood meeting to all property owners on the certified list required by Section 16.16.030B.1.b.(ii).
- c. Failure to provide the required affidavit or evidence of a defective mailing list shall result in termination of the review process until proper notice is provided and the neighborhood meeting conducted.
- 3. Within thirty days from submission by the applicant, and after review by the development review team, the current planning division shall make its recommendation to the planning commission unless the applicant consents to an additional period of time.
- 4. The current planning division shall make findings that accompany its recommendation and that address the following issues:
 - a. Whether the general development plan conforms to the requirements of this Chapter 18.41, to the city's master plans and to any applicable area plan;
 - b. Whether the proposed development will negatively impact traffic in the area, city utilities, or otherwise have a detrimental impact on property that is in sufficient proximity to the proposed development to be affected by it. If such impacts exist, the current planning division shall recommend either disapproval of the general development plan or reasonable conditions designed to mitigate the negative impacts; and
 - c. Whether the proposed development will be complementary to and in harmony with existing development and future development plans for the area in which the proposed development is to take place by:
 - i. Incorporating natural physical features into the development design and providing sufficient open spaces considering the type and intensity of use;
 - ii. Incorporating site planning techniques that will foster the implementation of the city's master plans, and encourage a land use pattern that will support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit, and the cost effective delivery of other municipal services consistent with adopted plans, policies and regulations of the city;
 - iii. Incorporating physical design features in the development that will provide a transition between the project and adjacent land uses through the provision of an attractive entryway, edges along public streets, architectural design, and appropriate height and bulk restrictions on structures;
 - iv. Incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the project design;
 - v. Incorporating elements of community-wide significance as identified in the town image map;
 - vi. Incorporating public facilities or infrastructure, or cash-in-lieu, that are reasonably related to the proposed development so that the proposed development will not negatively impact the levels of service of the city's services and facilities; and
 - vii. Incorporating an overall plan for the design of the streetscape within the project, including landscaping, auto parking, bicycle and pedestrian circulation, architecture, placement of buildings and street furniture.
- 5. Following issuance of the current planning division's recommendation, the application for planned unit development approval shall be set for public hearing at the next regularly scheduled meeting of the planning commission consistent with the provisions of Chapter 18.05. After holding the public hearing, which may be continued from time to time without further public or written notice, the planning commission shall issue a recommendation to council to either approve, approve with conditions or disapprove the general development plan. The planning commission shall consider the same factors used by the current planning division

when making its recommendation. Before imposing any condition or conditions on the general development plan that were not part of the applicant's original proposal, the chairman of the planning commission shall ask the applicant if the applicant accepts the condition or conditions. If the applicant objects to any condition that the planning commission believes should be imposed on the general development plan, then the planning commission shall recommend denial of the general development plan.

6. The planning commission's recommendation, along with the minutes of the planning commission meeting and exhibits submitted to the planning commission, shall be forwarded to council which shall consider the planning commission's recommendation after the planning commission approves the minutes of the meeting at which the commission made its recommendation. Following the conclusion of a public hearing noticed in accordance with Chapter 18.05, council may approve, deny, or conditionally approve the general development plan. Council shall consider the same factors used by the current planning division when making its recommendation to the planning commission. Before council may impose any condition or conditions on the general development plan that have not already been agreed to by the applicant, the mayor shall ask if the applicant accepts the condition or conditions. If the applicant objects to any condition that the city council believes should be imposed on the general development plan, then council shall deny the general development plan. At any stage in council's consideration of a general development plan, it may refer the plan back to the planning commission.
7. If council approves or conditionally approves the general development plan, it shall adopt an ordinance rezoning the property subject to the general development plan thereby establishing the general development plan as the zoning district for the property except that no development may take place on the property subject to the general development plan until a preliminary development plan and final development plan have been approved pursuant to this chapter. The general development plan shall be signed by the mayor or his designee, the current planning manager or his designee, the city engineer or his designee, and the city attorney or his designee, and the general development plan may not be recorded without such signatures. After the general development plan is signed, the ordinance approving or conditionally approving the general development plan shall be recorded without undue delay in the real property records for Larimer County and the city's zoning map shall be changed to reflect the rezoning of the property subject to the general development plan. The general development plan shall be kept on file with the building division and available for public inspection.
8. The ordinance approving or conditionally approving the general development plan may direct the current planning division to enter into a development agreement with the applicant that sets out all terms and conditions of approval of the general development plan. The development agreement shall be recorded within thirty days of approval of the general development plan and no preliminary development plan may be submitted for approval until the development agreement is recorded. Any amendments to the general development plan shall constitute, when appropriate, amendments to the development agreement which shall be amended and recorded.
9. No general development plan shall be approved if it is not in compliance with applicable land use and development regulations in effect at the time that council decides whether or not to approve the general development plan.
10. Whenever council denies an application for general development plan approval, it shall adopt findings and conclusions in support of the denial within thirty days from the date of the denial.

11. The general development plan may be amended in the same manner as it was approved, except that the current planning manager may recommend minor amendments without review by the planning commission unless the amendment would permit a use not allowed under the original general development plan, increase density of development by more than ten percent, decrease the amount of open space by more than ten percent, change any requirement for the payment of money or the dedication of land or other property rights to the city or the public or relocate any public right-of-way. If the current planning manager approves an amendment, he shall recommend the amendment to council. Council may approve the amendment by ordinance or disapprove the amendment. City may conditionally approve the amendment only if the applicant seeking the amendment agrees to the condition or conditions. If the applicant objects to any condition, then council shall deny the amendment.
 12. If the general development plan applies to property that is being annexed to the city, the following statement shall be placed on the final annexation plat: "This Property is subject to a General Development Plan which is on file in the City Building Division." When no general development plan is required, the final annexation plan shall have a note reading: "This Property is subject to a Preliminary Development Plan which is on file in the City Building Division."
 13. If an application for approval of a preliminary development plan is not filed with the city within one year from the date of approval of the general development plan where a general development plan is required, then approval of the general development plan shall lapse and the applicant will be required to submit to a new general development plan for approval by the city; except that the applicant may, before the expiration of the one year period, seek an additional period of time within which to file a preliminary development. An application for an extension of time shall be made to the current planning manager for the city who may grant or deny the extension in his or her discretion. If the extension is granted, then the current planning manager shall issue an approval for an extension of time within which to file a preliminary development plan.
- E. Preliminary development plan approval.
1. The following materials shall be submitted with any application for preliminary development plan approval:
 - a. All items specified in Section 18.41.050C.;
 - b. Fifteen copies of the preliminary development plan;
 - c. One eleven inch by seventeen inch reduced preliminary development plan;
 - d. Five copies of preliminary utility plans;
 - e. Three copies of preliminary soils and geology reports;
 - f. Three copies of required written materials, including but not limited to fiscal analysis, traffic analysis, or other reports that the planning staff or planning commission may require;
 - g. An affidavit certifying that the applicant conducted a neighborhood meeting in accordance with the following requirements:
 - i. All neighborhood property owners, as defined in Section 18.05.040 were notified and a neighborhood meeting conducted by the applicant; and
 - ii. At least fifteen days prior to the neighborhood meeting the applicant, by first class mail, sent a written notice of the neighborhood meeting to all property owners on the certified list required by Section 18.05.040.
 - h. Failure to provide the required affidavit or evidence of a defective mailing list shall result in termination of the review process until proper notice is provided and the neighborhood meeting conducted.

2. Within thirty days after it is submitted, the development review team shall review the preliminary development plan and the current planning division shall make a recommendation to the planning commission as to whether the preliminary development plan should be approved, denied, or conditionally approved. The planning commission shall consider the current planning division's recommendation and either approve, deny, or conditionally approve the preliminary development plan at the conclusion of a public hearing noticed in accordance with Section 18.050.040. The current planning division's recommendation shall include findings with regard to the following issues:
 - a. Whether the preliminary development plan conforms to the general development plan on file with the city where the property is being developed in phases;
 - b. Whether the preliminary development plan meets the intent and objectives of this chapter and the factors set forth in Section 18.41.050D.4.b. and c.; and
 - c. Whether the preliminary development plan complies with applicable land use and development regulations in effect as of the date that the general development plan was approved except that the preliminary development plan can be required to comply with regulations adopted after approval of the general development plan if the current planning division and the current planning commission expressly find that such compliance is necessary to protect public health, safety and welfare. If no general development plan was required, then the preliminary development plan must comply with applicable land use and development regulations in effect at the time the plan is approved or conditionally approved by the planning commission.
3. Final decisions and appeals.
 - a. The effective date of the planning commission's final decision shall be the date that the planning commission adopts its written findings and conclusions. The planning commission shall issue findings and conclusions in support of any decision within thirty days of its decision. Any party-in-interest as defined in Chapter 18.80, may file a written notice of appeal with the current planning division within ten days of the effective date of the current planning commission's final decision. Upon the filing of a notice of appeal, the appeal shall be scheduled for a full public hearing in accordance with Chapter 18.80. At the public hearing, council shall approve, approve with conditions, or disapprove the matter, considering the same standards as prescribed for the planning commission in this title.
 - b. If there is no applicable general development plan for the development, then the planning commission shall only make a recommendation to council regarding the approval, conditional approval or denial of the preliminary development plan. The council shall proceed in the same manner as in the case of general development plans as provided in Section 18.41.050D.1.-10.
 - c. For appeals filed by three or more council members, the appellants shall file a written notice of appeal with the current planning division, on a form provided by the current planning division, within twenty days of the effective date of the planning commission's decision. Upon the filing of a notice of appeal by three or more council members, the appeal shall be scheduled for a full public hearing, at the next regularly scheduled council meeting following receipt of the notice of appeal at which all public notification requirements can be complied with, in accordance with the provisions of Chapter 18.05. At the public hearing, council shall approve, approve with conditions, or disapprove the matter, following the same procedures as prescribed for the planning commission in this Title 18.
 - d. If there is no applicable general development plan for the development, then the planning commission shall only make a recommendation to council regarding the approval,

conditional approval or denial of the preliminary development plan. Council shall proceed in the same manner as in the case of general development plans (see Section 18.41.050D.6.-10.).

4. If there is an applicable general development plan for the development, then the approval or conditional approval of any preliminary development plan shall be by a resolution of the planning commission which incorporates by reference the preliminary development plan. The resolution shall be recorded in the real property records of Larimer County and the preliminary development plan shall be filed with the building division and be available for public inspection.
 5. The preliminary development plan may be amended in the same manner as it was approved, except that the current planning manager may approve minor amendments without review by the planning commission unless the amendment would permit a use not allowed under the original general development plan, increase density of development by more than ten percent, decrease the amount of open space by more than ten percent, change any requirement for the payment of money or the dedication of land or other property rights to the city or the public or relocate any public right-of-way. When a general development plan has been approved, the planning commission may amend the preliminary development. If no general development plan was required, then council shall approve amendments to the preliminary development plan.
 6. If an application for approval of a final development plan is not filed with the city within one year from the date of approval of the applicable preliminary development plan, then approval of the preliminary development plan shall lapse and the applicant will be required to submit a new preliminary development plan for approval by the city; except that the applicant may before the expiration of the one year period seek an additional period of time within which to file a final development plan. Application for an extension of time shall be made to the current planning manager for the city who may grant or deny the extension in his or her discretion. If the extension is granted, then the current planning manager shall issue an approval for an extension of time within which to file a preliminary plan.
- F. Final development plan approval.
1. The following materials shall be submitted with any application for approval of a final development plan:
 - a. All materials specified in Section 18.41.050C.;
 - b. Reproducible mylar and five copies of the final development plan;
 - c. Five copies of the final landscape plan;
 - d. Eleven inch by seventeen inch reduced final development plan and final landscape plan; and
 - e. Final copies of all other preliminary plans required at the time of preliminary development plan approval.

The final development plan shall show by proper notation, as applicable, all conditions imposed on the general development plan, and the preliminary development plan. The final development plan shall contain a note incorporating any approved general development plan applicable to the planned unit development.

2. The final development plan shall be reviewed by the current planning manager for the city in consultation with the current planning division staff and other city departments. The current planning manager shall either approve or deny the final development plan within thirty days from the date that it is submitted and shall base such decision on the following consideration: whether the final development plan is in substantial compliance with the preliminary development plan as approved or conditionally approved and applicable land use and

development regulations in existence on the date the preliminary development plan was approved unless the current planning manager affirmatively finds that the imposition of regulations adopted after approval of the preliminary development plan is necessary to protect public health, safety, and welfare.

3. If the current planning manager approves the final development plan, he shall issue an approval of final development plan which shall incorporate by reference the final development and shall be recorded in the real property records of Larimer County without due delay. The final development plan shall be filed with the building division and be available for public inspection. If the current planning manager denies approval of the final development plan, he shall mail a written notice of denial to the applicant setting forth the basis for the denial. Within ten days of the date the current planning manager mails the notice of denial to the applicant, the applicant may file an appeal of the denial in accordance with chapter 18.80 to the planning commission, which shall hear the matter in accordance with the procedures set forth in chapter 18.80, except that no further public notice of the appeal shall be required. Both the current planning manager and the applicant shall appear before the planning commission and be given an opportunity to speak to the issues. Except as permitted by a majority vote of the planning commission members present at the meeting, no other person shall be entitled to address the planning commission. The planning commission shall consider the same factors used by the current planning manager when making his determination.
4. The final development plan may be amended in the same manner as it was approved and must meet the same standards as required for approval. The applicant for any amendment may be required to comply with applicable land use and development regulations adopted after approval of the general development plan or the preliminary development plan if compliance is necessary to protect public health, safety and welfare.

18.41.054 Site development plan review.

Development of any category 2 development approved by a planned unit development final development plan shall be subject to the provisions of Chapters 18.39, 18.46 and 18.47 unless otherwise approved as part of the approval process for the planned unit development final development plan and supporting plans and documents.

18.41.070 Other regulations.

All city codes, regulations, and development standards, including, without limitation, site-specific development standards ("other regulations"), shall apply to planned unit developments except when those other regulations are inconsistent with the terms and conditions of an approved general development, preliminary development, or final development plan, and any deviation from any other regulations in an approved general development, preliminary development, or final development plan, shall be deemed an exception to or waiver from such other regulations.

18.41.080 Combined applications.

- A. An applicant may submit a combined application for planned unit development approval and subdivision approval so long as the combined application meets the more comprehensive submittal requirements, all applicable regulations and is reviewed by all appropriate authorities.
- B. A preliminary subdivision plat may only be submitted with an application for preliminary development approval and the final subdivision plat may be submitted with the final development plan, except that the final subdivision plat shall be approved in the manner set forth in Title 16. In addition, the planning commission and council may each hold simultaneous hearings on combined applications.

- C. An applicant also may combine its applications for general development plan, preliminary development plan and final development plan approval, or an appropriate combination thereof, but the applicant should be aware that conditions imposed on a prior plan will necessarily affect the applicant's ability to receive approval on a subsequent plan.
- D. Any approved general development plan, or preliminary development plan when no general development is required, shall be deemed an amendment to the city's master land use plan whenever the approved general or preliminary development plan allows a use different from or at a greater density than that shown on the master land use plan.

18.41.100 Exemptions and waivers.

An applicant for general development plan, preliminary development plan, or final development plan approval may seek an exemption or waiver from any regulation or requirement imposed by or authorized under this chapter. Exemptions and waivers from general development plan regulations and requirements shall be submitted along with the application for general development plan approval and be approved or denied by council. Exemptions and waivers from preliminary development plan regulations and requirements shall be submitted with the application for preliminary development plan approval and be approved or denied by the planning commission, except that when the preliminary development plan is required to be approved by council, council shall grant such exemptions or waivers. Exemptions and waivers from final development plan regulations and requirements shall be submitted with the application for final development plan approval and be approved or denied by the current planning manager.

18.41.110 Definitions.

As used in this chapter:

"Applicant" means the owner of land or the owner's legally designated agent who applies for approval of a planned unit development.

"Building envelope" means the two-dimensional space within which a building or structure is permitted to be built on a lot.

"Development agreement" means an agreement between the city and a developer which outlines the terms and conditions related to the approval of the planned unit development, including but not limited to, density, open space, infrastructure, phasing, land use, vested rights, etc.

"Environmentally sensitive area" means an area with one or more of the following characteristics: (i) slopes in excess of twenty percent; (ii) floodplain; (iii) soils classified as having a high water table; (iv) soils classified as highly erodible, subject to erosion or highly acidic; (v) land incapable of meeting percolation requirements; (vi) land formerly used for landfill operations or hazardous industrial use; (vii) fault areas; (viii) stream corridors; (ix) estuaries; (x) mature stands of vegetation; (xi) aquifer recharge and discharge areas; (xii) habitat for wildlife; or (xiii) any other area possessing environmental characteristics similar to those listed here.

"Final development plan" means a detailed site specific development plan approved by the current planning manager which demonstrates compliance with the terms and conditions of approval of the general and preliminary development plans. A submitted plan shall contain all information that the current planning division may require.

"Floor area ratio" or "FAR" means the gross floor area of all buildings or structures on a lot divided by the lot area.

"General development plan" means a conceptual site plan which outlines the general type, intensity and location of land uses and public facilities within the planned unit development. The general development plan will establish development character and policy guidance (e.g. lot size, landscaping, architecture, auto and pedestrian facility design, open space, etc.) for the property along with classification and design of the road and pedestrian network, access points to the existing road network

and proposed development areas within the planned unit development, major utility lines and phasing of development, including on- and off-site improvements. A submitted plan shall contain all information that the current planning division may require.

“Minor amendment” means a change to the general development plan or preliminary development plan which may be approved by the current planning manager as provided for in Section 18.41.050D.11. In principle, a minor amendment does not change the character, intensity, or overall distribution of land uses within the planned unit development.

“Open space” means the gross area of a lot or tract of land minus all streets, driveways, parking lots, and building areas, which is to be or has been landscaped or developed for use by the public or by the residents of the lot or tract of land for private, common or public enjoyment or recreational use.

“Preliminary development plan” means a plan that shows with reasonable specificity the general type, intensity, location and character of development within a planned unit development and generally contains the same information required for a general development plan. A submitted plan shall contain all information that the current planning division may require.

“Sketch plan” means rough sketch map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

“Vicinity map” means a map not necessarily drawn to scale showing the general location of the proposed development in relation to other developments within one mile of the development.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

“Wildlife corridor” means a land area used by wildlife for travel to or from a destination on a recurring basis.

Chapter 18.42

OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

18.42.010	Purpose.
18.42.020	Applicability.
18.42.030	Spaces required.
18.42.040	Shared parking.
18.42.050	Parking requirements for uses not listed.
18.42.060	Remote site parking.
18.42.070	Design standards for off-street parking areas.
18.42.080	Off-street loading areas.
18.42.090	Drive-thru stacking.
18.42.100	Site development plan review.

18.42.010 Purpose.

These standards specify the provision of off-street parking and loading facilities in proportion to the need generated by the development of new or the expansion of existing land uses as identified herein. These standards also provide for the design of off-street parking and loading areas that are safe, accessible, convenient, and attractive.

18.42.020 Applicability.

Off-street parking and loading areas, pursuant to the provisions herein, shall be provided for every use and structure. Non-residential land uses and mixed uses located in the General Improvement District No. 1 shall not be required to comply with the applicable provisions herein as provided in Section 18.24.050D.2.

18.42.030 Spaces required.

Adequate off-street parking shall be required for all development. The number of off-street parking spaces on Table 18.42-1 shall be required with land uses or buildings containing such land uses. These requirements shall be type 2 standards which shall be mandatory, unless otherwise approved by alternative compliance in accordance with the following provisions or as part of an approved special review, or an approved planned unit development.

- A. Upon submittal of written justification by the applicant, the current planning manager may allow application of an alternative standard, different than a type 2 standard, provided the current planning manager determines the following:
 1. The applicant has demonstrated that either:
 - a. Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or
 - b. The alternative standard achieves the intent of the subject type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.
- B. Whenever the current planning manager grants alternative compliance, the current planning manager shall prepare a written statement of findings based on the above criteria for such action. Such statement shall be placed in the development application file. The current planning manager's final decision with respect to such alternative compliance may be appealed to the planning commission in accordance with Section 18.60.020.

Table 18.42 -1 Parking Spaces Required	
Residential Land Use	Parking Requirement
One-family or two-family dwellings, multiple family dwellings	2 spaces per dwelling unit (may count tandem and garage spaces to meet requirement)
Accessory dwelling unit	See Section 18.48.060
Live/work space	2 spaces for every living area (residential unit), plus 1 space for every work area
Mobile home parks and communities	2 spaces per dwelling unit
Shelter for Victims of Domestic Violence	2 spaces for every 3 employees plus 2 parking spaces for the facility
Institutional Land Use	Parking Requirement
Colleges and universities (in campus setting)	1 space for each employee plus 1 space for every 5 students
Colleges and universities in non-campus setting	1 space for each classroom seat, plus one space for each employee
Elementary school	2 spaces for each classroom
Government, semi public uses	2 spaces for every 3 employees
Hospitals	2 parking spaces per bed, plus 1 space for every 300 square feet of outpatient clinics and service areas
Independent living facilities	1 space for each unit, plus 1 space for every employee
Junior high school	2 spaces for each classroom
Nursing homes, Alzheimer's care, assisted living, congregate care facilities	1 space for every 3 beds, plus .5 space for every employee
Place of worship or assembly with 200 or fewer seats in the principal place of assembly	1 space for every 4 seats in the principal place of assembly; or 1 space for every 35 square feet of seating area or 18 lineal inches of bench space where there are no fixed seats in the principal place of assembly.
Place of worship or assembly with over 200 seats in the principal place of assembly	Where multiple uses or times of use overlap at a place of worship or assembly with over 200 seats, parking shall be required for all proposed uses based on this table and shared parking provisions of Section 18.42.040 may be applied, considering the uses and overlap.
Senior high school	1 space for each 3 seats in the auditorium or principal place of assembly
Commercial Land Use	Parking Requirement
Administrative, insurance and research facilities	1 space for every 250 square feet of floor area
Animal hospitals and clinics	1 space for every 300 square feet of floor area
Automotive sales, leasing and service (including cars, trucks, motor cycles)	1 space for every 450 square feet of floor area (showroom, office, repair and parts sales)

Banks, savings and loan, and finance companies	1 space for every 250 square feet of floor area
Bar or tavern	1 space for every 100 square feet of floor area
Bed and breakfast	1 space for every guest room, plus 2 spaces for employees
Call center	1 space for every 166 square feet of floor area
Car wash	2 stacking spaces for every bay, plus 2 spaces for employees for full-service car washes
Convenience store (see Section 18.52.060 for calculating gross floor area)	1 space for every 200 square feet of floor space
Convention, conference center	1 space for every 3 seats
Dance clubs or dance halls	1 space for every 100 square feet of floor area
Domestic animal day care facility	1 space for every 450 square feet of floor area
Equipment and small vehicle rental	1 space for every 300 square feet of floor area
Flex office space with light manufacturing	1 space for every 333 square feet of floor area
Funeral homes, mortuaries	1 space for every 4 seats
Galleries, art and dance studios, photo studios	1 space for every 2 students or visitors at maximum capacity, plus 2 spaces for every 3 employees
Garden supply, greenhouses, nurseries – retail sales (excludes production areas)	1 space for every 300 square feet of floor area devoted to retail sales
Greenhouses, nurseries – production (no retail sales)	2 spaces for every 3 employees
Gas stations with repair, tire and lube shops	1 space for every pump island, plus 1 space for every 200 square feet of floor area
Health care service facility	1 space for each examination or treatment room, plus 1 space for every 2 employees or health care provider
Hotels, motels, rooming houses, boarding houses and tourist homes	1 space for every unit, plus .75 space for every employee
Laundromats	1 space for every 250 square feet of floor area
Live/work space	2 spaces for every living area, plus 1 space for every work area
Medical and dental clinics and offices	1 space for every 225 square feet of floor area
Membership clubs, athletic/fitness facilities	1 space for every 300 square feet of floor area
Mixed-uses	As required for both uses and subject to Section 18.42.040.B
Night Clubs	1 space for every 4 seats, plus 2 spaces for every 3 employees on the maximum shift

Personal service and business shops (retail laundries, hair salons, barber shops, tanning and nail salons, shoe repair, copy shops)	1 space for every 300 square feet of floor area
Places of amusement or recreation (indoor recreation, not including theaters or auditoriums)	1 space for every 200 square feet of floor area
Preschools, nurseries, or child care centers	1 space for each 450 square feet of floor area
Professional offices	1 space for every 250 square feet of floor area
Restaurants with drive-thru lanes or windows	1 space for every 100 square feet of floor area, including outdoor patio space, plus 5 stacking spaces for every drive-thru lane or window
Restaurants standard, sit down	1 space for every 200 square feet of floor area, including outdoor patio space
Restaurants fast food without drive-thru lanes or windows, coffee shops, delis, juice bars	1 space for every 3 seats, or 1 space for every 150 square feet of floor area (whichever results in greater number of spaces), but no less than 5 spaces
Restaurants drive-in – with or without drive-thru lane – this use is assumed to have 1 space provided for every order box	1 space for every 3 seats, or 1 space for every 150 square feet of floor area (whichever results in greater number of spaces), plus 5 stacking spaces for every drive-thru lane or window (if applicable)
Retail business and commercial uses	1 space for every 300 square feet of floor area
Theaters, auditoriums or other places of assembly	1 space for every 3 seats in the principal place of assembly
Industrial Land Use	Parking Requirements
Airports, heliports	2 spaces for every 3 employees, plus 1 space for every 200 square feet of lobby or waiting area
Hangars	1 space for every 1,000 square feet of floor area (may be inside hangar)
Contractor's shops, yards	2 spaces for every 3 employees
Dry cleaning plants, commercial laundries	2 spaces for every 3 employees
Foundries	2 spaces for every 3 employees
Industrial or manufacturing activities (excluding offices)	1 space for every 450 square feet of floor area or 1 for every 2 employees, whichever is greater
Live/work space	2 spaces for every living area, plus 1 space for every work area
Lumber yard (wholesale)	2 spaces for every 3 employees
Medical and research laboratories	1 space for every 450 square feet of floor area
Personal wireless service facilities	1 space

Recycling facilities	Unattended facilities – 1 space for every loading area Attended facilities – 1 space for every loading area, plus 2 spaces for every 3 employees
Self-storage facilities	1 space for every 300 square feet of office area, plus 1 space for every employee or 2 spaces for resident manager
Showroom warehouse	1 space for every 300 square feet of showroom floor area, plus 1 space for every 1,000 square feet of warehouse area
Utility service facilities	2 spaces for every 3 employees
Vehicle sales, leasing, and repair (farm equipment, mobile homes, rv's, boats, large trucks)	1 space for every employee, plus 1space for every 500 square feet of floor area
Wholesale commercial uses and warehouses	1 space for every 1,000 square feet of floor area, plus 1 space for every 5,000 square feet after first 100,000 square feet
Workshops, custom small industry	2 spaces for every 3 employees

- C. For parking requirements based on floor area, the total gross floor area shall be used for calculating the requirement, based on the principal use of the building, including outdoor seating areas for restaurants. When the calculation of required parking spaces results in a fractional number, the required number shall be rounded up to the next whole number. Additional parking standards and guidelines are found in Section 3.04 of the Site Development Performance Standards and Guidelines and in Chapter 19 of the Larimer County Urban Area Street Standards.
- D. The off-street parking requirements of Section 18.42.030A. for non-residential and mixed-use developments or uses located with frontage on the following redevelopment corridors, excluding areas zoned BE, may be reduced up to ten percent. Upon submittal of written justification by the applicant, greater reductions may be considered by the current planning manager, as may be appropriate for the use and location, and considering such things as the availability of sufficient on-street parking, access to the site and parking area(s), and/or the potential for negative impacts as a result of parking reductions. Parking reductions provided for in this section shall not require alternative compliance. For the purposes of this section, the redevelopment corridors shall be defined as follows:
1. S.H. 287 (including Buchanan Avenue, Cleveland Avenue, Garfield Avenue, and Lincoln Avenue) from Ranch Acres Drive to 14th Street SE.
 2. Eisenhower Avenue from Namaqua Drive to Boise Avenue.
- E. The off-street parking requirements of Section 18.42.030A. for land uses located within the R3-E district and within the geographic area specified below may be reduced up to twenty-five percent. Upon submittal of written justification by the applicant, greater reductions may be considered by the current planning manager, as may be appropriate for the use and location, and considering such things as the availability of sufficient on-street parking, access to the site and parking area(s), and/or the potential for negative impacts as a result of parking reductions. Parking reductions provided for in this section shall not require alternative compliance. On-street parking spaces directly adjacent to the site may be counted toward meeting the off-street parking requirements of Section 18.42.030A. The geographic area of this provision shall be: all R3-E zoned parcels within an area bounded by U.S. Highway 34 on the north; Boise Avenue on the east; the Big Thompson River on the south; and Taft Avenue on the west.

- F. For parking requirements based on the number of employees, the number of employees on the major or largest shift shall be used to determine requirements.
- G. Where garages are available, tandem spaces in front of garages shall be counted toward meeting off-street parking requirements for single-family and two-family dwelling units.
- H. When the number of parking spaces exceeds one hundred fifty percent of the number required in Section 18.42.030A., an additional one deciduous shade tree shall be added to the interior parking lot landscaping for every additional ten parking spaces and shall be distributed throughout the interior landscape islands of the parking area. Any additional trees required by this section shall not count toward other landscaping requirements. Parking lots with less than fifteen parking spaces required shall be exempt from this provision.
- I. Where Leadership in Energy and Environmental Design (LEED) certification is being sought for new buildings, major building renovations, or for existing buildings, and LEED credit is achieved for addressing alternative modes of transportation, the number of required parking spaces may be reduced through approval of alternative compliance of a type 2 standard, as provided in Section 18.42.030A.

18.42.040 Shared parking.

- A. Shared parking shall be allowed if the maximum number of vehicles using the shared parking spaces does not exceed, at any time, the sum of the spaces required by the provisions of this chapter. Once established, shared use of a parking facility shall continue until the properties which share parking spaces are, independently, in compliance with the access, parking, and circulation requirements of the Site Development Performance Standards and Guidelines, as provided in Chapter 18.47.
- B. When one building is planned to include a combination of different uses, the minimum parking required shall be determined by applying the requirements of Section 18.42.030A. based upon the gross floor area for each use, and shall include outdoor seating areas, as well as other areas in the building that generate parking demand.
- C. A reduction of no more than twenty percent of the total number of required parking spaces may be made for shared parking for buildings or sites that include a mix of land uses that include residential with office uses, or residential with retail uses. Further reductions, or reductions for other land use mixes may be considered under the alternative compliance provisions for type 2 standards in Section 18.53.020 and shall take into consideration such things as hours of operation, location, and nature of the proposed land use mix, and potential impacts, if any, on adjacent properties.
- D. If an agreement for shared parking is approved and entered into, it shall be recorded with the Larimer County Clerk and Recorder's Office.

18.42.050 Parking requirements for uses not listed.

For specific uses not listed in Table 18.42-1, the current planning manager shall use the most recent edition of the American Planning Association's Planning Advisory Service Report on parking to determine parking requirements.

18.42.060 Remote site parking.

In lieu of locating parking spaces required by this title on the lot which generates the parking requirements, such parking spaces may be provided on any lot or premises owned or leased by the owner of the use that generates the parking demand, within three hundred feet of the property generating such parking requirements, for any business, commercial or industrial use. Ownership in this regard may include participation in a parking district or other joint venture to provide off-street parking areas to the extent that the parking requirement for each lot using the joint venture to meet its parking requirement

can be met by a proportionate or greater number of off-street parking spaces in the lot subject to the joint venture. Any lot or premise which is subject to a lease for the purpose of providing off-street parking areas to meet the parking requirements of another lot shall contain a sufficient number of parking spaces to meet the parking requirements of both such lots unless reduced under the provisions of Section 18.42.040B.

18.42.070 Design standards for off-street parking areas.

- A. All areas counted as off-street parking spaces shall be unobstructed and free of other uses, including storage or display of merchandise.
- B. Unobstructed access to and from a street shall be provided for all off-street parking spaces.
- C. All off-street parking spaces shall be surfaced with asphalt or concrete or other similar surfacing. Parking shall not be permitted in a required front setback except on a residential driveway and/or parking pad that extends through a front setback.
- D. All open off-street parking areas with six or more spaces shall be adequately screened from any adjoining residentially zoned lot and from any street by landscaping or solid fencing, which fencing or landscaping shall be maintained in good condition at all times. The landscaping or fencing shall be installed and maintained to specifications prescribed by the city, provided such landscaping and fencing may be waived by the current planning manager when it is determined that safety factors would indicate the same should be waived. If lighting is provided for such parking areas, it shall not be directed toward any adjacent residential area or public street and shall meet the provisions of Section 3.09 of the Site Development Performance Standards and Guidelines.
- E. All off-street parking areas serving a use requiring three or more parking spaces shall be designed and traffic controlled therein so that access to and from a public street shall require vehicular traffic to be traveling in a forward direction when entering and exiting from such parking areas. However, a single-family or two-family dwelling unit may have a parking area which is designed to permit vehicles to back directly onto one public local street.
- F. Off-street parking spaces may be provided in areas designated to jointly serve two or more buildings or uses, provided the provisions of Section 18.42.040B. are met.
- G. No part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this title shall be included as part of an off-street parking space similarly required for another building or use, unless permitted as shared parking under the provisions of Section 18.42.040B. No part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this title shall be converted to any use other than parking unless additional parking space is provided to replace such converted parking space and meets the requirements of any use to which such parking space is converted.
- H. All parking areas shall be designed to the extent possible to be in conformity with the approved parking lot design standards in the Site Development Performance Standards and Guidelines and Larimer County Urban Area Street Standards.
- I. Parking for persons with disabilities shall be as required by the Americans with Disabilities Act.
- J. A row of parking spaces shall extend no more than fifteen spaces, counted along one side, without an intervening landscape island.
- K. Large parking lots shall be divided into smaller sections or compounds, containing a maximum of two-hundred parking spaces per section, through the use of landscape separators a minimum of fifteen feet in width, excluding any pedestrian pathways or sidewalks. Landscape separators shall contain a minimum of one deciduous or evergreen tree per seven-hundred square feet of landscaped area, or one tree per thirty-five lineal feet, whichever results in a greater number of trees.

- L. A maximum vehicle overhang of two feet shall be permitted where the adjacent sidewalk or landscape area is not less than seven feet in width, allowing for an unobstructed walkway or landscape area of at least five feet in width. The use of wheel barriers is prohibited. Such parking spaces shall be no less than seventeen feet in length and shall not be used in compact parking spaces.

18.42.080 Off-street loading areas.

Off-street loading areas shall be required for non-residential uses which require goods, merchandise, or equipment to be routinely delivered to or shipped from that use and shall be of sufficient size to accommodate vehicles which will serve such use. The location of the loading area shall not block or obstruct any public street, alley, driveway, or sidewalk. Loading areas shall be provided as follows: one off-street loading space for buildings between five thousand square feet and twenty thousand square feet, plus one additional off-street loading space for each twenty thousand square feet or fraction thereof of additional gross floor area in excess of twenty thousand square feet.

18.42.090 Drive-thru stacking.

Off-street stacking shall be provided for land uses which contain a drive-thru lane or drive-up window, including, but not limited to, banks and restaurants, so that waiting vehicles do not interfere with other vehicular access and circulation on or adjacent to the site, subject to the following requirements:

- A. A minimum of five off-street stacking spaces shall be required for each restaurant drive-thru lane or drive-up window. Stacking spaces shall not be used to satisfy parking requirements.
- B. A minimum of three off-street stacking spaces shall be required for each car wash or bank drive-thru lane or drive-up window.
- C. Off-street stacking spaces shall be a minimum of eight feet wide and twenty feet in length.
- D. Areas reserved for stacking shall not otherwise be used as maneuvering areas or circulation driveways, nor interfere with access to or circulation on the site, or parking on-site.

18.42.100 Site development plan review

Development of a parking lot, whether as a principal use or accessory use, is subject to the applicable provisions of Chapters 18.39, 18.46, and 18.47 and shall comply with all other applicable codes and ordinances of the city.

Chapter 18.43

MOBILE HOME PARKS, COMMUNITIES, AND CAMPGROUNDS

Sections:

- 18.43.005 Purpose.**
- 18.43.010 Where permitted.**
- 18.43.020 Minimum total area.**
- 18.43.030 Minimum area of each site.**
- 18.43.040 Minimum width of a site.**
- 18.43.050 Minimum yards.**
- 18.43.060 Required site improvements and facilities.**

18.43.005 Purpose.

The purpose of this chapter is to specify the circumstances in which mobile home parks, communities and campgrounds can be permitted and the regulations applicable to their development.

18.43.010 Where permitted.

Mobile home communities may be permitted under the special review procedures in the R3 district and mobile home parks and campgrounds under the special review procedures in the B district provided each mobile home community, mobile home park, and campground complies with all applicable city ordinances and the provisions of this chapter.

18.43.020 Minimum total area.

The minimum total areas shall be as follows:

Mobile home community	10 acres
Mobile home park	5 acres
Campground	5 acres

18.43.030 Minimum area of each site.

The minimum area of each site shall be as follows:

In a mobile home community	4,000 square feet
In a mobile home park	2,400 square feet
In a campground	1,600 square feet

18.43.040 Minimum width of a site.

The minimum width of a site within a mobile home park, mobile home community, or a campground shall be twenty-five feet.

18.43.050 Minimum yards.

The minimum yard requirements for a mobile home park, mobile home community, or a campground shall be as follows:

Front yard	10 feet
Side yard	5 feet
Rear yard	20 feet

18.43.060 Required site improvements and facilities.

- A. Connections to city water and sewer shall be available for each mobile home space.
- B. All interior private or public streets shall be surfaced with asphalt or concrete to a width of at least thirty-four feet.
- C. All private or public streets shall be lighted by covered street lamps.
- D. All utility lines shall be placed underground.
- E. When dependent units are allowed to occupy a space, a service building containing adequate auxiliary toilets and laundry facilities shall be provided for use by dependent units.
- F. A recreational area at least equal to one space in area for every ten mobile home spaces.
- G. Refuse disposal shall be available in covered receptacles.
- H. Sidewalks shall be provided as required by Section 12.20.010.

Chapter 18.45

FLOODPLAIN REGULATIONS

Sections:

18.45.010	Purpose.
18.45.020	Definitions.
18.45.030	Establishment of districts.
18.45.040	Interpretation and application.
18.45.050	Floodway district.
18.45.060	Flood fringe district.
18.45.065	Areas of special flood hazard.
18.45.070	Information required for special review applications.
18.45.080	Review standards and criteria.
18.45.090	Nonconforming buildings or uses.
18.45.100	Nonliability of the city.

18.45.010 Purpose.

It is the overall purpose and intent of this chapter to promote the health, safety and general welfare and to provide adequate zoning regulations to minimize public and private losses due to flooding. It is further intended that these regulations will help to identify and clarify where flood hazards may exist and to ensure that potential buyers or builders are aware that certain properties are of areas with special flood hazards.

18.45.020 Definitions.

The definitions set forth in Section 15.14.020 shall be applied to the terms defined therein as they appear in this chapter.

18.45.030 Establishment of districts.

- A. There are created and established in the city the following special zoning districts: floodway (FW) district and flood fringe (FF) district.
- B. The boundaries of the districts are as shown by the Flood Insurance Rate Map (FIRM) accompanying the Flood Insurance Study for Larimer County, Colorado and Incorporated areas, dated February 6, 2013, published by the Federal Emergency Management Agency, which map constitutes an addition to the zoning district map of the City of Loveland, Colorado, adopted by Section 18.04.040. The designation of such special district boundaries as shown on the map shall be in addition to the designations shown on the zoning district map, which designations are called “underlying zoning districts” elsewhere in this chapter.
- C. Modifications to the established boundaries for the FW and FF districts may be made by council in accordance with the amendment procedures established by this title and shall be based upon city-approved engineering studies, which present modifications or refinements to the original engineering and surveying determinations.

18.45.040 Interpretation and application.

- A. The districts and regulations established by this chapter shall be included as a part of this Title 18.
- B. Whenever possible, the provisions of this chapter shall be interpreted to apply in conjunction with other land use regulations. If conflicts with other provisions of this Code do occur, the more restrictive provision shall apply.

18.45.050 Floodway district.

- A. Uses permitted without special review. The following uses may be permitted in the floodway district, provided the special conditions of Subsection B. of this section are met:
 - 1. Agricultural uses, including general farming, grazing of horses and livestock, forestry, sod farming, crop harvesting, raising of plants and flowers, and open-air nurseries;
 - 2. Recreational uses including, but not limited to, golf courses, golf driving ranges, swimming pools, parks and recreation areas, picnic grounds, horseback riding and hiking trails; and
 - 3. Wildlife and nature preserves, game farms and fish hatcheries.
- B. Conditions for uses permitted without special review.
 - 1. No use shall limit or restrict or create an obstruction of the flow capacity of the floodway or channel or a main stream or a tributary to a main stream;
 - 2. No permitted use shall include structures, fill or storage of materials or equipment;
 - 3. Any proposed well, solid waste disposal site or sewage disposal system shall be protected from inundation by floodwater;
 - 4. No use shall increase flood heights during the base flood discharge; and
 - 5. No new mobile homes or mobile home parks or mobile home subdivisions shall be permitted.
- C. Uses permitted by special review. The following uses may be permitted through the special review procedures of Chapter 18.40:
 - 1. Circuses, carnivals, and similar transient amusement enterprises;
 - 2. Temporary roadside stands;
 - 3. Limited stockpiling of sand and gravel;
 - 4. Boat rentals, docks, and piers;
 - 5. Railroads, streets, bridges, utility transmission lines ,and pipelines; and
 - 6. Open pit mining for removal of topsoil, sand, gravel, or other materials.
- D. Conditions for uses permitted by special review. The following special conditions shall apply for uses permitted by special review in the floodway district:
 - 1. The procedures and requirements of Chapter 18.40 shall be followed for all applications;
 - 2. No structure, deposit, obstruction or other use shall be allowed which acting alone or in combination with existing or future uses adversely affects the flow capacity of the floodway or increases flood heights;
 - 3. The storage processing of materials that are in time of flooding buoyant, flammable, poisonous, explosive, or could be injurious to human, plant, or animal life shall be prohibited; and
 - 4. No storage of movable objects shall be permitted.

18.45.060 Flood fringe district.

- A. Uses permitted without special review. All uses permitted by right in the underlying zoning district but excluding outside storage.
- B. Conditions for permitted uses.
 - 1. All structures shall be placed on fill so that the lowest floor (including basement) of such structures is at or above the regulatory flood protection elevation. Any new structure or addition to an existing structure on a property removed from the flood fringe district by the issuance of a FEMA Letter of Map Revision Based on Fill (“LOMR-F”) must still be constructed such that its lowest floor level is at or above the regulatory flood protection elevation. Nonresidential structures may be permitted without being placed on fill, provided the floodproofing requirements of Section 15.14.080 are met;

2. No use shall be commenced or structure built which may limit or restrict the flow capacity of the channel of a tributary or drainageway, or retard drainage of flood waters from the area in which a structure is built;
 3. Fill or deposition of materials shall be permitted only to the extent required for placement of structures and their accessory uses;
 4. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems; and
 5. All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters, and on-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding.
- C. Uses permitted by special review. All uses permitted by special review in the underlying zoning district shall be permitted in the flood fringe district, provided the conditions of Subsection D. of this section are met.
- D. Conditions for uses permitted by special review. The following special conditions shall apply for uses permitted by special review in the FF district:
1. The requirements and procedures of Chapter 18.40 shall be followed for all applications;
 2. Fill or deposition of materials shall not be permitted if such is found to reduce the storage or flow capacity of a waterway;
 3. The lowest floor (including basement) of all new structures or substantial improvements to existing structures shall be placed at or above the regulatory flood protection elevation. Any new structure or addition to an existing structure on a property removed from the flood fringe district by the issuance of a FEMA LOMR-F must still be constructed such that its lowest floor level is at or above the regulatory flood protection elevation. Nonresidential structures may be permitted without being placed on fill, provided the floodproofing requirements of Section 15.14.080 are met;
 4. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
 5. All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding; and
 6. The storage or processing of materials that are in time of flooding buoyant, flammable, poisonous, explosive, or could be injurious to human, plant, or animal life shall be prohibited.

****See also Sections 15.14.005 through 15.14.080.**

18.45.065 Areas of special flood hazard.

All new and substantially improved critical facilities and new additions to critical facilities located within the areas of special flood hazard shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this chapter, protections shall include one of the following: (i) the structure shall be located outside of the special flood hazard area; or (ii) the structure's lowest floor level shall be elevated or floodproofed to at least two feet above the regulatory flood datum. New critical facilities shall, when practical as determined by the public works department stormwater division senior civil engineer, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a one hundred-year flood event.

18.45.070 Information required for special review applications.

In addition to the application requirements for special review requests as stated in Chapter 18.40, special review requests for development within a floodway district or flood fringe district shall include the following information as necessary:

- A. Plans drawn to scale and prepared by a professional engineer showing the nature, location, dimensions, and elevation of the lot, parcel or tract of land;
- B. Location and dimensions of all proposed structures;
- C. The amount of fill to be used, if any;
- D. A description and specifications of all floodproofing measures;
- E. The relationship of the use or structures to the location of the channel, floodway, and flood protection devices;
- F. The flood protection elevation;
- G. A typical valley cross-section showing the channel of streams, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information;
- H. Surface view plans showing elevations or contours of the ground, pertinent structures, fill or storage elevations, size, location, and spatial arrangement of all proposed and existing structures on the site;
- I. Location and elevations of streets, water supply, and sanitary facilities;
- J. A profile showing the slope of the bottom of the channel or flow line of the stream; and
- K. Specifications for building construction and materials, floodproofing, filling dredging, grading, channel improvements, storage of materials, water supply, and sanitary facilities.

18.45.080 Review standards and criteria.

The following factors are to be considered by the planning commission and council when reviewing special review applications for areas located in the floodway district or flood fringe district:

- A. The danger of life and property due to the increased flood heights or velocities caused by encroachments upstream or downstream within the floodplain;
- B. The danger of materials being swept away onto other lands or downstream to the injury of others in the event of a flood;
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions in the event of a flood;
- D. The relationship of the proposed use to the flood management program for the area in question;
- E. The safety of access to the property in times of flood;
- F. The expected heights, velocity, duration, rate of the rise and sediment transport of floodwaters at the proposed location and their effect on the proposed use; and
- G. The recommendations of the planning and engineering staff and the building official.

18.45.090 Nonconforming buildings or uses.

- A. A structure or use within a structure or use of premises which was lawful before the passage of this chapter, but which is not in conformity with the provisions of this chapter may be continued without compliance with this chapter. Such nonconforming uses or nonconforming buildings may be repaired, expanded or altered only upon compliance with the following conditions:
 - 1. Any nonconforming use of property may be expanded, provided that such expansion is approved by the public works director. Any appeal of the public works director's final decision shall be made to the planning commission in accordance with Chapter 18.80.
 - 2. Any nonconforming structure may be repaired, altered or enlarged, provided the repair, enlargement or alteration does not exceed fifty percent of the nonconforming structure's market value as existing prior to such enlargement.

3. If a nonconforming use of property or nonconforming building is discontinued or vacated for a period of twelve consecutive months, it shall be deemed to be abandoned and any further use of the property or structure shall conform to this chapter.
- B. A nonconforming structure which is damaged or destroyed by any calamity, except flood, may be restored to its original condition if such restoration commences within one year from the date of the calamity. If any nonconforming structure is damaged to the extent of fifty percent of its actual value by flood, the nonconforming structure shall be restored only in compliance with this chapter. If such flood damage is less than fifty percent of the structure's actual value, such structure may be restored without compliance with this chapter, Chapter 15.14, the Floodplain Building Code, provided the restoration commences within one year from the date of damage.

18.45.100 Nonliability of the city.

- A. The degree of flood protection provided by the terms of this chapter is, after considering numerous relevant factors, considered reasonable for regulatory purposes. Floods of greater magnitude may occur and flood heights may be increased as a result of natural or manmade causes. Further, provisions of this chapter do not imply that areas outside the boundaries of areas of special flood hazard or that land uses permitted within the area of special flood hazard are free from flooding or flood damage.
- B. The grant or approval by the city under the regulations as contained in this chapter shall not constitute a representation, guarantee, or warranty of any kind or nature by the city, or by any officer, board member or employee thereof, of the practicability or safety of any structure, building, or other proposed use; and shall create no liability upon or cause of action against such public body, officer, board member, or employee of the city for any damages, from flood or otherwise, that may result from such use.

Chapter 18.46

SITE DEVELOPMENT PLAN REQUIREMENTS AND PROCEDURES

Sections:

- 18.46.010 Purpose.**
- 18.46.020 Applicability and restrictions.**
- 18.46.030 Application and review procedures for site development plan.**
- 18.46.040 Approval of a site development plan.**
- 18.46.050 Effect of approval.**
- 18.46.060 Phasing plan approval.**
- 18.46.070 Amendment of an approved site development plan.**
- 18.46.100 Application, review, and issuance of a site work permit.**
- 18.46.120 Amendments to a site work permit.**

18.46.010 Purpose.

The purpose of this chapter is to provide procedural requirements for obtaining approval of a site development plan and a site work permit.

18.46.020 Applicability and restrictions.

- A. The requirements of this chapter apply to category 2 development.
- B. Site development plan approval is required for all category 2 development with the following exceptions:
 - 1. Tenant finishes that do not constitute a change in use.
 - 2. Routine building and site repairs and maintenance.
 - 3. Landscaping maintenance and modifications that do not result in the removal of trees, or the location or density of plantings, and that do not diminish compliance with established standards.
 - 4. Exterior building modifications that do not expand building square footage, change customer entrances, diminish the character of the property, create incompatibility with surrounding uses or appreciably modify site function.
 - 5. Circumstances appreciably similar to those specified above when the current planning manager determines that a site development plan would serve no useful purpose.
- C. Site work permit. Unless otherwise provided in this chapter, no site work permit shall be issued unless the current planning manager has approved and issued a site development plan for the proposed development of the property. This provision shall not limit the city from issuing an early grading permit or other preliminary improvements when, in the judgment of the director of the affected department, the development review team and the current planning manager, it is appropriate to do so.
- D. Application for building permit. Unless otherwise provided in this Code, no building permit application for category 2 development shall be accepted by the city unless a site development plan has been approved by the current planning manager, or early acceptance of said permit application is authorized by the development review team. The determination of the development review team shall be based upon whether the site development plan application being reviewed is in substantial compliance with city requirements and standard applicable codes.

- E. Issuance of a building permit. No building permit shall be issued by the city until the site development plan has been approved and issued by the current planning manager, the applicant has submitted all required final documents, the city engineer has approved and issued a site work permit, and all required public improvements related to the proposed development have been installed, or future installation has been financially secured, pursuant to the provisions of Chapter 16.40.
- F. Simplified site development plan. As determined by the current planning manager in consultation with the development review team, a simplified site development plan may be submitted for review in association with a building permit application in lieu of the regular site development plan review process. The simplified site development plan review process is applicable to redeveloping properties where minimal or no additional utility or street improvements are required to serve the proposed development. Considerations in determining whether a simplified site development plan is appropriate include the following:
 - 1. Parking requirements can be met with minimal paving changes.
 - 2. The existing vehicle ingress and egress provisions are adequate.
 - 3. Exterior additions represent less than twenty percent of the existing floor area.
 - 4. Exterior site or building alterations do not substantially diminish or alter the character of property.
 - 5. Existing landscape area and landscape function is not substantially diminished.
- G. Waiver of requirements.
 - 1. For development or redevelopment which proposes minimal landscaping adjustments, site improvements or exterior building improvements, the current planning manager, in consultation with the development review team, may waive the requirement for a site development plan.
 - 2. For development or redevelopment which proposes or requires minimal or no utility improvements the city engineer may waive the requirement for a site work permit.

18.46.030 Application and review procedures for site development plan.

Applications for a site development plan for category 2 development shall be submitted to the current planning division and reviewed by the development review team in accordance with the provisions of Chapter 18.39.

18.46.040 Approval of a site development plan.

- A. If a site development plan is related to any other development application under review by the city, such as, but not limited to, annexation, zoning, rezoning, subdivision, amended plats, special review, or variance, the site development plan may be reviewed concurrently with such other applications, but shall not be approved until such applications have received final approval and applicable appeal procedures have been exhausted.
- B. The current planning manager may approve or approve with conditions the site development plan application. Any approval shall be expressly for the property indicated in the application, and may be transferred to a future property owner, but may not be transferable to any other property.
- C. Upon approval of the site development plan application, the current planning manager shall notify the applicant that the application has been approved, including all conditions that may be part of the approval. The current planning manager shall also notify the applicant of the type and number of all final documents necessary for the permanent file.
- D. If the site development plan application is denied, the applicant may appeal the decision of the current planning manager to the planning commission, pursuant to the provisions of Chapter 18.80.

18.46.050 Effect of approval.

If all the property included in a site development plan is not substantially developed, improved, and used in compliance with said plan within thirty-six months from the date of approval of said plan, then the plan shall become null and void. In this context, substantially developed means that all approved building square footage is constructed and all site improvements are installed and in compliance with the approved plan. Approval of a site development plan does not authorize commencement of any physical demolition, alteration, construction of improvements to land, buildings, streets, or utilities.

18.46.060 Phasing plan approval.

Upon submittal of a written request by the applicant prior to the expiration of a site development plan, the planning commission may approve a phasing plan that extends the validity period of a site development plan if at least fifty percent of the approved building square footage has been constructed prior to the expiration period. When considering a phasing plan, the planning commission may require a noticed public hearing and may place conditions on any phasing approval granted.

18.46.070 Amendment of an approved site development plan.

Amendment of a site development plan may be pursued with submittal of an application to the current planning division in accordance with the provisions set forth in this chapter. The current planning manager, in consultation with the development review team, may determine that review by the development review team would serve no practical purpose; in such instance, the current planning manager may approve, approve with conditions, or deny the application.

18.46.100 Application, review, and issuance of a site work permit.

- A. Application. Upon approval of the site development plan, or upon approval of the development review team, the applicant may submit an application for the required site work permit. Applications for a site work permit shall be submitted to the current planning division and shall contain the information required in the applicable submittal checklist. The application shall be reviewed in a manner that is consistent with the provisions of Section 18.46.040 of this chapter; once the development review team determines the application is reviewable, the city engineer shall be responsible for administration of the remainder of the review, approval, and issuance process.
- B. Pre-construction meeting. Upon the determination by the development review team that the application for a site work permit is complete, a pre-construction meeting with the applicant's construction team shall be scheduled by the city engineer. The pre-construction meeting may be waived if the city engineer determines that, based on the nature and scope of the proposed development application, the meeting would not serve a useful purpose.
- C. Approval and issuance. Following the pre-construction meeting, and upon determination by the city engineer that it is appropriate to authorize commencement of construction on the site and any off-site areas that are part of the overall project, the city engineer shall issue the site work permit. Issuance of a site work permit shall authorize the commencement of construction of all improvements shown or described in the approved site development plan except as specified in Subsection D. below.
- D. Limitation. Issuance of a site work permit does not authorize any demolition or construction of buildings, building foundations, or similar structures on the project site, unless a demolition permit for such work has also been approved and issued by the city building official.

Construction of buildings, building foundations, and similar structures may commence only upon issuance of a partial or full building permit by the building official.

18.46.120 Amendments to a site work permit.

Upon approval of an amended site development plan, pursuant to Section 18.46.070, and if determined to be appropriate by the development review team, the applicant shall submit an application for an amended site work permit. The application shall be submitted and processed in accordance with the provisions set forth in this chapter.

Chapter 18.47

SITE DEVELOPMENT PERFORMANCE STANDARDS AND GUIDELINES

Sections:

18.47.005	Purpose
18.47.010	Site development performance standards and guidelines adopted.
18.47.020	Amendment.
18.47.030	Application.
18.47.040	Conflicts.

18.47.005 Purpose.

The site development performance standards and guidelines provide site improvement standards primarily for commercial, industrial and multifamily development. These provisions are designed to promote quality design that results in a functional, safe and attractive environment.

18.47.010 Site development performance standards and guidelines adopted.

The “Site Development Performance Standards and Guidelines,” dated October, 1989, were prepared by the city beautification board and the planning, engineering, building, and streets department, and are adopted.

18.47.020 Amendment.

The site development performance standards and guidelines may be amended from time-to-time by resolution of council.

18.47.030 Application.

The site development performance standards and guidelines shall apply to all uses permitted by right and by special review in this title unless expressly exempted and as provided in the Code.

18.47.040 Conflicts.

In the event of a conflict between a provision of the site development performance standards and guidelines and any other provision of this Code or any other applicable regulation, the more stringent provision shall apply.

Chapter 18.48

ACCESSORY BUILDINGS AND USES

Sections:

18.48.010	Purpose.
18.48.015	Accessory buildings and uses defined.
18.48.020	Home occupations.
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18.48.010 Purpose.

The purpose of this chapter is to define and specify allowances and restrictions for buildings and uses that are accessory or subordinate to the primary building or use located on the property.

18.48.015 Accessory buildings and uses defined.

- A. An “accessory building and use” is a subordinate use of a building, other structure, or tract of land or a subordinate building or other structure:
 1. Which is clearly incidental to the use of the principal building;
 2. Which is customary in connection with the principal building, other structure or use of land; and
 3. Which is ordinarily located on the same lot with the principal building, other structure, or use of land.
- B. Accessory buildings and uses may include, but are not limited to, the following:
 1. Home occupations;
 2. Horses and household pets;
 3. Signs;
 4. Fences, hedges and walls;
 5. Private greenhouses;
 6. Private swimming pools;
 7. Storage of merchandise in business and industrial districts as permitted by this Code;
 8. Fallout shelters;
 9. Cultivation, storage and sale of crops, vegetables, plants and flowers produced on the premises, except that the cultivation and storage of medical marijuana grown for sale pursuant to the provisions of Article XVIII, Section 14 of the Colorado Constitution, whether at cost or for profit, shall not be considered as an accessory use under this Section 18.48.010 unless conducted as a home occupation in accordance with all applicable requirements of this Chapter 18.48, but nothing herein shall be construed as authorizing the operation of any business required to be licensed under the Colorado Medical Marijuana Code, which businesses are prohibited by Chapter 7.60;
 10. Detached garages;
 11. Private tennis courts;
 12. Off-street parking areas;
 13. Off-street loading areas in business and industrial districts;

14. Collection and storage of recyclable materials by semipublic users at the location of their primary activities, provided that such collection is of minor or intermittent nature, and that the collection and storage operation complies with the provisions of this title relating to recyclable materials; and
 15. Satellite dishes for residential use.
- C. Supplemental criteria for accessory buildings and uses include the following:
1. Any permitted accessory building, structure or use which is defined as an unsightly area in Section 4.06 of the Site Development Performance Standards and Guidelines shall be screened in accordance with the provisions of that section.
 2. All other permitted accessory buildings, structures or uses which are conducted or operated in connection with a non-residential principal use must either be located or conducted at a distance from the front lot line which is equal to or greater than the front setback for the principal building or use with which it is connected, or be screened from view in compliance with Section 4.06.02 of the Site Development Performance Standards and Guidelines.
 3. Off-street parking area shall comply with the requirements of Section 4.07 the Site Development Performance Standards and Guidelines.
 4. Accessory uses which are approved as part of a special review site plan, and signs, shall be exempt from the requirements of Subsection 2. above.
 5. The following limitations and requirements shall be applied as normal guidelines to a detached garage or storage building in a residential zone district, in order for the garage to be determined to be incidental and customary.
 - a. The garage shall not exceed nine hundred square feet in building footprint.
 - b. The height of the roof eave shall not exceed ten feet above grade.
 - c. The roof pitch shall be similar to the roof pitch on the principle dwelling.

18.48.020 Home occupations.

- A. Purpose. The purpose of the provisions of this section is to insure that an occupation or business undertaken within a dwelling unit located in a residential zoning district is incidental to or secondary to the residential use and is compatible with the residential character of the neighborhood.
- B. Intent. It is the intent of this section to permit only those home occupations that do not adversely affect the residential character and quality of the neighborhood and the premises on which the home occupation is located. It is the further intent of this section to limit the types of business that will be allowed as home occupations, because locating certain businesses within residential neighborhoods can have adverse effects upon the residential character and quality of the neighborhoods in which they are located.
- C. Definitions. As used in this section:
 1. "Commercial vehicle" means a vehicle having a combined gross vehicle weight rating greater than twelve thousand pounds designed for transportation of commodities, merchandise, produce, freight, animals or passengers, and operated in conjunction with a home occupation.
 2. "Exterior activity" means storage, display, or work done in conjunction with the home occupation that does not take place within the confines of the structures on the premises.
 3. "Foodstuff" means a substance used or capable of being used as nutriment.
 4. "Home occupation" means any activity undertaken for monetary gain within or associated with any dwelling unit within the city's corporate limits, and shall include, without limitation, a primary caregiver cultivating, storing, manufacturing and/or providing medical marijuana in any form for his or her patients in accordance with Article XVIII, Section 14 of the Colorado

Constitution and C.R.S. 25-1.5-106, whether at cost or for profit, provided the primary caregiver is not required to have a license under the Colorado Medical Marijuana Code.

5. "Major home occupation" means a home occupation complying with the requirements of Subsections D.1. and D.4.
 6. "Minor home occupation" means a home occupation complying with the requirements of Subsections D.1. and D.3.
 7. "Neighborhood" means property owners and tenants whose property, or any part thereof, is located;
 - a. within three hundred feet of the boundary of the property on which the home occupation is proposed; and
 - b. within a distance of six hundred feet measured along the street frontage in both directions, and on both sides of the street, from the boundary of said property on which the home occupation is proposed. Measurements for purposes of establishing the notice area set forth herein shall be in accordance with the examples in Figure A.
 8. "Staff person" means a person who is employed in connection with a home occupation, and who works on the premises but does not reside on the premises.
 9. "State licensed day-care facility" means a type of family care home in a place of residence which has been licensed with the state and provides care for not more than eight children under the age of sixteen years who are not related to the head of such home. This use shall be a major home occupation. This definition shall not apply to a group care facility as defined in Section 18.04.040, or to a day-care facility for greater than eight children, for which a special review is required.
- D. Limitations on home occupations. The following limitations are designed to minimize the impact of home occupations upon the surrounding residential neighborhood:
1. General Requirements. The following standards apply to all home occupations except as modified in Subsections D.3. and D.4.:
 - a. The home occupation shall be conducted entirely within the dwelling unit or associated accessory building, except for a state licensed family child care home.
 - b. The person conducting the home occupation shall reside on the premises on which the business operates.
 - c. The home occupation shall occupy not more than twenty-five percent of the combined total floor area of the dwelling unit and any accessory buildings, included but not limited to the basement, garage, and upper floors of the dwelling unit, except for a state licensed family child care home.
 - d. There shall be no display, advertising, sign, exterior activity or exterior alteration of the home that would in any way indicate that the premises are being used for a home occupation, except that exterior activity may be allowed for outdoor playground activities in a state licensed family child care home.
 - e. The home occupation shall not generate, in excess of levels customarily found in residential neighborhoods, any vibration, smoke, dust, odors, noise, electrical interference with radio or television transmission or reception, or heat or glare which is noticeable at or beyond the property line of the premises upon which the home occupation is located.
 - f. No additional off-street parking shall be created on the premises for the home occupation, except for bed and breakfast and boarding and rooming houses as a major home occupation.
 - g. No clients, pupils, or staff person shall be on the premises between the hours of ten p.m. and seven a.m., except clients of boarding and rooming houses, bed and breakfast homes, and state licensed family child care homes.

- h. There shall be no deliveries to or from the premises with a vehicle longer than sixteen feet or rated over eight thousand gross vehicle weight (a standard United Parcel Service truck). Moving vans shall be permitted for the purpose of delivering or removing household or office furnishings.
 - i. No commercial vehicle shall be used in conjunction with a home occupation.
 - j. The operation of any wholesale or retail business is prohibited unless it is conducted entirely by mail (U.S. Postal Service, United Parcel Service, and the like), or sales are transacted on the premises no more than one time per calendar month (e.g., Tupperware parties). Incidental sales of products shall be permitted (e.g., hair care products sold in conjunction with a beauty salon, or instructional books sold in conjunction with music lessons).
 - k. No chemicals or substances which are physical or health hazards as defined in the fire code as adopted by the city shall be used, sold or stored in conjunction with a home occupation.
 - l. The home occupation shall not result in an increase in the life safety hazard rating of the site or buildings on the site as defined in the building code as adopted by the city.
 - m. Any home occupation involving the preparation, sale or handling of foodstuffs shall be required to obtain approval from the Larimer County Health Department prior to commencing business. Proof of health department approval must be furnished to the city at the time a business occupancy permit is applied for.
 - n. The allowance of home occupations is not intended nor shall it be construed to abrogate or otherwise modify other zoning restrictions, subdivision restrictions or covenants, or other restrictions that may apply to the premises.
 - o. There shall not be more than one primary caregiver per dwelling unit cultivating, storing, manufacturing or providing medical marijuana in any form to his or her patients in accordance with Article XVIII, Section 14 of the Colorado Constitution and C.R.S. 25-1.5-106, and the primary caregiver shall not have more than thirty medical marijuana plants being grown on the premises of the dwelling unit at any given time.
2. Prohibited home occupations. Certain business uses have a demonstrated tendency to cause impacts to a neighborhood that are detrimental to the character and value of residential properties, and have associated impacts upon the public health, safety, and welfare in residential areas. The following uses, regardless of whether they meet the performance standards, are not permitted as home occupations:
- a. Veterinary offices or clinics, animal hospitals or kennels;
 - b. Equipment rental;
 - c. Funeral chapels, mortuaries or funeral homes;
 - d. Wedding chapels;
 - e. Medical or dental clinics;
 - f. Repair or painting of automobiles, motorcycles, trailers, boats and other vehicles;
 - g. Repair of large appliances including stoves, refrigerators, washers and dryers;
 - h. Repair of power equipment including lawn mowers, snow blowers, chain saws, string trimmers and the like;
 - i. Restaurants;
 - j. Welding or metal fabrication shops;
 - k. Dispatching of vehicles to and from residential premises. This prohibition includes, but is not limited to taxi services, towing services, and the like; and
 - l. The sale of firearms.

3. Minor home occupations. A use shall be classified as a minor home occupation and allowed without a business occupancy permit in all residential districts provided that the general provisions of Subsection D.1. and the following standards are met:
 - a. There shall be no advertising, sign, exterior activity, or other indications of a home occupation on the premises except as follows:
 - i. boarding and rooming houses and bed and breakfast homes may list the address of the home occupation in business or telephone directories; and
 - ii. Properties within the North Cleveland Sub-Area, as defined in Section 18.16.110, shall be permitted one sign on North Cleveland Avenue subject to the standards in Section 18.50.090.
 - b. Only persons who reside on the premises shall be employed in the conduct of the home occupation.
 - c. Neither direct sale nor display of products is permitted, although a person may pick up an order previously placed by telephone or off the premises.
 - d. Business deliveries and business shipments, on the average, may not occur more than once per month, and deliveries and shipments shall occur only between the hours of eight a.m. and five p.m. Monday through Friday.
 - e. No more than one client or pupil shall be served at one time.
 - f. Boarding and rooming houses may rent rooms for residential purposes to not more than two persons per dwelling unit. Meals shall be served only to those who reside within the dwelling unit.
 - g. Bed and breakfast homes may rent not more than two rooms to guests. Meals shall be served only to those who reside within the dwelling unit and overnight guests.
 - h. Notwithstanding any other provision of this Section 18.48.020 to the contrary, a primary caregiver providing medical marijuana in any form to his or her patients in accordance with Article XVIII, Section 14 of the Colorado Constitution and C.R.S. 25-1.5-106, shall not provide such medical marijuana to his or her patients in or on the premises of the primary caregiver's home, except for those patients whose residence is also the primary caregiver's home, but a primary caregiver shall only deliver medical marijuana to his or her patients off of the premises from which the primary caregiver conducts his or her minor home occupation.
4. Major home occupations. A use shall be classified as a major home occupation, and allowed by permit in all residential districts, provided that the general provisions of Subsection D.1. and the following standards are met:
 - a. No more than one staff person shall be permitted. Construction contractors and similar businesses who have more than one employee may operate an office as a home occupation provided that only the staff person reports to the premises.
 - b. Business deliveries and business shipments, on the average, may not occur more than once per week, and deliveries and shipments shall occur only between the hours of eight a.m. and five p.m. Monday through Friday.
 - c. No more than one commercial vehicle shall be used in conjunction with the home occupation or parked on the premises.
 - d. The addition of a secondary entrance to the home shall be the only permitted exterior alteration.
 - e. No more than four persons at one time may avail themselves of the services provided by the home occupation, or more than twelve people during a twenty-four hour period. Barber and beauty shops shall have no more than two stations. State licensed family child care homes may provide care for the number of children authorized under the applicable State license.

- f. Boarding and rooming houses which rent rooms for residential purposes to more than two persons per dwelling unit are major home occupations. Meals shall be served only to those who reside within the dwelling unit. Parking shall be provided for the dwelling unit and for the use in accordance with Chapter 18.42. On-street parallel parking may be used to provide some or all of the required parking spaces. On-street parallel parking shall be located immediately adjacent to the property on which the use is located and shall not block any driveway. Any additional required parking spaces shall be located behind the dwelling unit. Parking lot design, access design, parking space dimensions, screening, landscaping, and buffer yards shall be in accordance with Chapter 18.47.
- g. Bed and breakfast homes which rent more than two rooms to guests are major home occupations. Meals shall be served only to those who reside within the dwelling unit and overnight guests. Parking shall be provided for the dwelling unit and for the use in accordance with Chapter 18.42. On-street parallel parking may be used to provide some or all of the required parking spaces. On-street parallel parking shall be located immediately adjacent to the property on which the use is located and shall not block any driveway. Any additional required parking spaces shall be located behind the dwelling unit. Parking lot design, access design, parking space dimensions, screening, landscaping and buffer yards shall be in accordance with Chapter 18.47.
- h. Properties within the North Cleveland Sub-Area, as defined in Section 18.16.110, shall be permitted one sign on North Cleveland Avenue subject to the standards in Section 18.50.090.

E. Application procedure.

- 1. Any person wishing to establish a major home occupation within the city must obtain a business occupancy permit. The person desiring to obtain a business occupancy permit shall make an application for same with the city. The application shall be made on such forms as required by the city. There shall be a nonrefundable fee of twenty-five dollars for filing the application.
- 2. Within four days of the date of application with the city, the applicant shall mail a notice to all members of the neighborhood. The notice shall be in form approved by the city.

F. Review procedure.

- 1. The city shall have twelve days from the date of application to review and formulate written findings of whether or not the business occupancy permit should be granted.
- 2. Any member of the neighborhood shall have twelve days from the date of application within which to contact the city and request a neighborhood meeting.
- 3. At the conclusion of the neighborhood review period identified in paragraph 2 above, if no request for a neighborhood meeting is received, the director shall post a notice of intent to approve or deny a business occupancy permit at the planning office and the applicant shall mail such notice to members of the neighborhood. If the director finds that the business occupancy permit should be granted, the permit shall be issued to the applicant at the conclusion of the appeal period as stated in Subsection G. of this section.
- 4. If a request for a neighborhood meeting is received, the applicant shall be notified that a neighborhood meeting is required. The applicant shall be responsible for scheduling the neighborhood meeting with the city and for sending a notice to all members of the neighborhood. The notice shall be in a form approved by the city and shall be mailed a minimum of twelve days in advance of the scheduled neighborhood meeting.
- 5. The purpose for the neighborhood meeting shall be to inform the neighborhood about the nature of the home occupation and to reach agreement between the applicant, the neighborhood and the city regarding whether the home occupation meets the criteria for granting a business occupancy permit and is compatible with the character of the

neighborhood. The applicant, the neighborhood and the city may also agree upon additional conditions of approval.

6. If agreement is reached at the neighborhood meeting between the applicant, the neighborhood and the city, the director shall post a notice of intent to issue a business occupancy permit at the planning office and mail said notice to members of the neighborhood and council. The notice shall be posted and mailed during the next working day following the neighborhood meeting. The permit shall be issued to the applicant at the conclusion of the appeal period as stated in Subsection G.

G. Appeal.

1. Appeal of director's decision. Any applicant or member of the neighborhood may appeal a final decision of the director regarding the granting or denial of a business occupancy permit so long as the appeal is filed with the city within ten days of the date that a notice of intent to issue a business occupancy permit was mailed by the director, or the permit was denied. Upon the filing of an appeal, the permit application shall be suspended pending conclusion of the appeal process. Appeals shall be conducted by the planning commission in accordance with Chapter 18.80. The applicant shall be notified of the appeal, and shall be responsible for sending a notice to the members of the neighborhood. The notice shall be in a form approved by the city and shall be mailed a minimum of fifteen days in advance of the scheduled public hearing.
2. Planning commission consideration. At the appeal hearing, the planning commission shall follow the procedures set forth in Chapter 18.80, and shall consider the application, the findings and determinations of staff, and take public testimony regarding the proposed home occupation. The planning commission shall review the application for compliance with the provisions of this Code and other adopted regulations, the compatibility of the application with the character of the surrounding neighborhood and adverse influences that might result from approval of the application. The planning commission may either approve, approve with modifications or conditions or deny the application. The planning commission's final decision may be appealed to council in accordance with Chapter 18.80.

H. Permit.

1. All applications for a business occupancy permit shall include a list of the names and addresses of all the property owners and tenants who were mailed a notice and an affidavit which certifies that the property owners and tenants on the list have been notified at each step in the review process.
2. Prior to the issuance of the business occupancy permit, the applicant shall certify that he or she will operate the home occupation in conformity with the provisions of this title and any conditions agreed upon at the neighborhood and council meetings, if applicable.
3. Once issued, said permit shall apply only to the applicant, occupation and premises stated in the application. The permit is nontransferable and nonassignable and shall remain in full force and effect unless revoked pursuant to Subsection J of this section. Said permit shall also be deemed to be automatically revoked when the applicant ceases engaging in the home occupation at the approved premises for ninety consecutive days or longer.

- I. Revocation of permit and appeal. A business occupancy permit may be revoked by the director if the director finds that the home occupation no longer conforms to the provisions of this section or the conditions of approval of the business occupancy permit. A business occupancy permit may also be revoked upon a determination by the city that the mailing list was faulty or the applicant failed to follow the application, review and appeal process. Notification to the applicant shall include findings in support of the revocation and the applicant's rights of appeal. The written notification of revocation shall be mailed to the last known address of the permit holder. The date of the mailing shall be the date of notification. The business occupancy permit

holder may appeal the director's final decision to the planning commission in accordance with Chapter 18.80.

- J. Enforcement. It is unlawful for any person to operate a home occupation that does not conform to the provisions of this section. It shall also be unlawful for any person to operate a home occupation that does not conform to the conditions of approval as stated on the business occupancy permit.

18.48.050 Swimming pools.

Swimming pools may be located in any zoning district as an accessory use provided that such pools are situated on a lot, tract, or parcel in a manner which is not detrimental to the health, safety and welfare of the users of the

- A. pool or the adjacent property owners.
- B. All swimming pools shall have safety features that prevent unwanted access to the pool as determined by the chief building official. Access may be controlled by completely enclosing the pool with a minimum of a four-foot high fence, or elevating the pool at least four feet above the ground level, or by installing an automated pool cover, or by use of other safety features.
- C. Gates, ladders, or entrances to the swimming pool area shall be designed to prevent people gaining access to the pool area without the owner's consent.

18.48.060 Accessory dwelling unit.

- A. An accessory dwelling unit, where permitted, must meet the following conditions:
 - 1. It must be on the same lot, either attached or detached with another single-family dwelling unit;
 - 2. It must have a minimum of five hundred square feet and cannot exceed seven hundred fifty square feet of floor area;
 - 3. It must have its own cooking and bathing facilities;
 - 4. Electric, water and sewer service must be from the single-family dwelling unit on the property. There shall not be separate utilities to the accessory unit;
 - 5. It must be of the same architectural style, materials and colors as the principal single-family dwelling so as to be architecturally compatible;
 - 6. No portion of an accessory unit shall be located nearer the front lot line than the principal single-family dwelling unit;
 - 7. It must meet all of the setback requirements within the zoning district in which it is located;
 - 8. The minimum required lot size is ten thousand square feet except if approved through special review;
 - 9. There can only be one accessory dwelling unit permitted per lot;
 - 10. Within the R1 zoning district, no accessory dwelling unit shall be located within five hundred feet of another accessory dwelling unit;
 - 11. The maximum number of accessory dwelling unit permits which can be issued during any calendar year shall be limited to one percent of the total number of dwelling units within the city limits as determined by the current planning manager;
 - 12. There shall be no off-street parking required where the street width is twenty-eight feet or greater; and
 - 13. To qualify as an accessory unit under this section, one of the units on the property must continue to be occupied by the owner of the property as defined in the residential occupancy definition in this title;

18.48.070 Fences, hedges, and walls.

It is the purpose of the provisions of this section to establish requirements for the height, location, materials, and maintenance of fences, hedges, or walls which will promote the health, safety, and welfare of the community. Fences, hedges, and walls shall be required to comply with the following standards and requirements:

A. General standards and requirements.

1. The height of a fence, hedge or wall shall be measured as follows:
 - a. The height of a fence, hedge, or wall shall be the greatest vertical difference in elevation between the top of the fence, hedge, or wall, and the lowest point of approved grade located perpendicular to and within five feet on either side of the fence, hedge or wall.
 - b. When a fence or wall is located on sloping ground with the top constructed in more or less horizontal fashion and not-parallel with the slope, the height shall be measured at the mid-point of each fence section.
 - c. The maximum height of a fence or wall shall not include the support posts or ornamental features included in the construction, provided that the overall construction of such posts and ornamental features does not exceed the limitations describing a limited solid material fence or wall as set forth in Section 18.48.070A.2., below, and that no posts or ornamental features extend more than one foot above the top of fence or top of wall.
2. All fences and walls which have a ratio of solid material to open space of not more than one to four shall be considered limited solid material fences, and walls.
3. All fences and walls which have a ratio of solid material to open space of more than one to four shall be considered solid material fences, and walls.
4. All fences and walls must be located within the boundary lines of the property owned by the person or persons who construct and maintain them, unless expressly approved otherwise in writing by the city.
5. No barbed wire or other sharp-pointed fences and no electrically charged fences shall be installed on any property, except in the Be, B, F and I districts. Before such fences are constructed, they must be approved by the planning division as to their safety and compliance with the laws of the state.
6. All fences, hedges and walls shall be maintained in good condition at all times. All fences and walls shall be neatly finished and repaired, including all parts and supports.
7. No fence or wall may be constructed in a manner or location which will interfere with natural surface water run-off or which will result in a negative impact to any adjacent property by natural surface run-off. All fences and walls must be constructed in a manner that is in harmony with city drainage requirements and standards and in compliance with any approved drainage plans on file with the city for the property upon which the fence or wall is constructed.
8. It shall be unlawful for any person to place, allow or be placed, or allow to remain on any lot, tract or parcel of land which is either owned or otherwise legally controlled by them a fence, hedge or wall that creates an unsafe or dangerous obstruction or condition, or that obstructs reasonable access to utility or drainage equipment, structures, or facilities located within a dedicated easement or right-of-way, by utility providers, agencies, corporations, or businesses and their designated representatives who are entitled to gain access to such equipment, structures, or facilities.

B. Height, location standards, and requirements. The maximum height of all fences and walls shall be six feet, three inches, except as hereafter provided:

1. Fences, and walls around tennis, squash racquet, squash tennis or badminton courts and publicly owned recreation areas may exceed six feet in height, provided, that the same are limited solid material fences, and walls.

2. Limited solid material fences, and walls located in front yard areas, except publicly owned recreation areas, shall have a maximum height of four feet unless the same are set back fifteen feet from the front property line.
3. Solid material fences, and walls located in front yard areas shall have a maximum height of three feet unless the same are set back fifteen feet from the front property line.
4. When a fence, or wall is located in a side or rear yard abutting a street, lot, tract or parcel of land, said fence, or wall may be located upon the property line, provided that it meets the requirements set forth in Subsection B.5. (sight distance triangles).
5. A sight distance triangle shall be provided at the intersection of any vehicular access point into a public or private right-of-way, which is a through street or alley, and at the intersection of street rights-of-way or alley rights-of-way, except as provided in this section. A sight distance triangle shall not be applicable at intersections at which all vehicle movements are controlled by traffic signals or stop signs. The sight distance triangle shall be provided both to the left and right of all access(es) for street and alley intersection(s) where a sight distance triangle is applicable.
 - a. A sight distance triangle shall be measured and applied as specified in the site development performance standards and guidelines. Such measurements and applications of the sight distance triangle may be modified at specific intersections and vehicular access points, due to extenuating site conditions, so long as the city's traffic engineer determines that the safe movement of motor vehicle, bicycle, and pedestrian traffic will not be negatively affected by such modification.
 - b. No solid material fence, wall over two feet in height, tree, hedge, vegetation, or other obstruction, as measured from the top of the curb, located within a sight triangle, shall unreasonably interfere with the safe movement of motor vehicle, bicycle, or pedestrian traffic.
 - c. Upon a determination by the city traffic engineer that any such obstruction unreasonably interferes with the safe movement of motor vehicle, bicycle, or pedestrian traffic, the city shall notify in writing the owner(s) of the property on which the obstruction is located that such obstruction shall be removed within fifteen business days. In the event the property owner(s) fails to adequately remove the obstruction within the fifteen day period, the city shall have the right to begin enforcement proceedings against the owner(s).
 - d. There shall be a rebuttable presumption that any obstruction within a sight distance triangle does not unreasonably interfere with the safe movement of motor vehicle, bicycle, or pedestrian traffic where motor vehicles are authorized to park within the sight distance triangle on the street immediately adjacent to the applicable sight distance triangle.
6. In the I and F districts, fences and walls in the rear and side yards may be eight feet in height, provided there is no obstruction of the required sight distance triangle stipulated in Subsection B.5. above.

C. Definitions. As used in this section:

1. "Approved grade" means the elevation of the ground, or any paving or sidewalk built upon it, which has been established on the basis of an engineered grading and drainage plan for the property that has been reviewed and approved by the city for the property. When no engineered grading and drainage plan is on file with the city, an established historic grade may be accepted in-lieu-of the engineered plan, based on general information available, including, when appropriate, a site inspection of the property by the city before the fence, hedge or wall is constructed. In making a determination regarding historic grade, the city may, when deemed necessary, require submission of current surveyed elevations of the

property and other nearby properties; or may require that an engineered grading and drainage plan be submitted by the owner or occupant of the property.

2. "Fence section" means a portion or panel of fence construction, normally consisting of pickets, planks or metal fabric attached to horizontal rails, and which is attached or constructed, in more or less regular sequential intervals, to supporting vertical posts; in determining what constitutes a fence section, the normal guideline shall be sequential sections of fence which are eight feet in length.
3. "Hedge" means several plants planted in a sequence or pattern so that the branches and stems of adjacent plants grow together in a manner that results in a meshing or intertwining of stems and branches with little or no passable space left between the plants, thus forming more or less a barrier or enclosure.
4. "Top of fence/top of wall" means the uppermost point on the edge or surface of a fence or wall, but not including support posts or architectural features as described in Section 18.48.070A.1.d.
5. "Top of hedge" means the highest point on the uppermost branches or stems of a hedge above which only leaves or needles naturally grow.

18.48.080 Model homes and sales offices.

- A. Model homes and sales offices shall be allowed as an accessory use to a residential subdivision so long as the provisions of this chapter are met.
- B. Each subdivision shall be allowed one model home for each unit type or style offered for sale within the subdivision.
- C. Each subdivision shall be allowed one sales office for purposes of sale of lots or dwelling units within the subdivision, so long as the sales office is located within a model home or temporary structure whose location is approved by the planning division.
- D. Each model home or sales office shall obtain a type 1 planning application approval prior to occupancy of the structure.
- E. The use of a residential structure for a model home or sales office shall cease upon sale of all residential units or lots located within the boundaries of the subdivision.
 - a. Upon termination of use of the model home or sales office for the subdivision, the unit shall be restored for residential use, including, but not limited to, restoration of the garage for auto storage and installation of a driveway.

18.48.090 Satellite dishes.

- A. Satellite dishes for residential use may be located in any zoning district as an accessory use to any legally established residential use of the property.
- B. Each property shall be limited to one satellite dish per dwelling unit.
- C. Every such dish shall be located in the space between the residential structure, the minimum rear yard for accessory buildings, and lines drawn perpendicularly from the point of the building nearest the side lot lines to the rear lot lines; provided that in no event shall such dish be located any nearer to a side lot line than the required width of a side yard in the zoning district.
- D. All satellite dishes for residential use shall be constructed or painted in a manner that is compatible with or blends with the surroundings. No advertising shall be allowed on satellite dishes for residential use.

18.48.100 Storage, repair, and parking of vehicles as accessory use in residentially zoned area.

- A. It is the purpose of the provisions of this section to establish requirements for the storage, repair and parking of vehicles as accessory uses in residentially zoned areas of the city, which requirements will promote the health, safety and welfare of the community. It is unlawful for any

person who owns, rents, or occupies any lot, tract or parcel of land to use or allow to be used such land in a manner inconsistent with the provisions of this section.

B. Definitions. As used in this section:

1. "Collector's vehicle" means a motor vehicle currently and validly registered and licensed as such with the state pursuant to the provisions of C.R.S. 42-12-401, *et seq.*, and includes a parts car as defined by said statute even if such car is not registered and licensed.
2. "Registered vehicle" means a motor vehicle which is currently and validly registered and licensed pursuant to the laws of the state for operation on public roadways by the state of Colorado, whether such vehicle is actually operated or not. "Registered vehicle" does not include a "collector's vehicle" as defined herein.
3. "Residentially zoned area" means the property within any of the following zoning districts: R1e, R1, R2, R3e, R3 residential planned unit development, or any other area used for residential purposes.
4. "Unenclosed area" means an area which is outside of the confines of a building with walls and roof which totally screens the contents of the building from the outside.
5. "Unregistered vehicle" means a motor vehicle or portion thereof which is not currently and validly registered and licensed with the state for operation on public roadways by the state, whether such vehicle is actually operated or not. "Unregistered vehicle" does not include a parts car as described in the definition of "collector's vehicle."

C. Collection, storage, and parking of an unregistered vehicle. The provisions of Section 18.48.010 notwithstanding, the collection or storage of an unregistered vehicle on any lot, tract or parcel of land located within a residentially zoned area shall be considered a permitted accessory use only providing each of the following conditions are met:

1. the collection, storage or parking area is maintained in such a manner that it does not constitute a health, safety or fire hazard;
2. the collection, storage or parking area is kept free of weeds, trash and accumulations of waste;
3. the unregistered vehicle is completely enclosed, screened from public and private off-lot view, or covered with a securely fastened tarp; and
4. not more than one unregistered vehicle is collected, stored or parked on any lot, tract or parcel.

D. Storage of collector's vehicle. One or more collector's vehicles and parts cars for collector's vehicles may be stored upon a lot, tract or parcel of land located within a residentially zoned area as a permitted accessory use only providing each of the following conditions are met:

1. each collector's vehicle and any parts cars for the collector's vehicle is maintained in such a manner that it does not constitute a health, safety, or fire hazard, either individually or collectively;
2. the outdoor storage area is maintained in such a manner that it does not constitute a health, safety or fire hazard;
3. the outdoor storage area is kept free of weeds, trash, and other objectionable items;
4. each collector's vehicle and any parts care for the collector's vehicle is totally screened from ordinary public view by means of a solid fence, trees, shrubbery, or securely fastened tarp; and
5. the registered owner of each collector's vehicle is also the owner or a resident of the lot, tract, or parcel upon which said vehicle is stored.

E. Repair of vehicles. The provisions of Section 18.48.010 notwithstanding, the repair, maintenance, restoration or rebuilding of a registered or unregistered vehicle on an unenclosed area of a lot, tract, or parcel of land located within a residentially zoned area shall be considered a permitted accessory use only providing each of the following conditions are met:

1. the owner of the vehicle is either the owner or resident of the lot, tract or parcel upon which the vehicle is being repaired, maintained, restored, or rebuilt;
2. not more than one vehicle is being repaired, maintained, restored, or rebuilt on any one lot, tract, or parcel at any given time; and
3. if the vehicle being repaired, maintained, restored, or rebuilt is an unregistered vehicle, then no other unregistered vehicle is being collected, stored, or parked on the lot, tract, or parcel.

Chapter 18.50

SIGNS

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18.50.010 Purpose.

The purpose of this chapter is to promote and protect the public health, safety and welfare which includes traffic safety and the public's right to an aesthetic environment by regulating existing and proposed signs of all types within the city in order to assure that:

- A. For the public convenience, businesses, services and activities have the right to identify themselves by using signs;
- B. Signs enhance the economic, cultural and social viability of the community;
- C. Signs are legible in the circumstances in which they are seen;
- D. Signs are expressive of the identity of individual properties or of the community as a whole;
- E. Signs are well designed and compatible with their surroundings and with the uses to which they are an accessory;
- F. Signs preserve and enhance property values in the community;
- G. Hazardous and unsafe sign conditions are eliminated;
- H. There is a reasonable balance between the right of individuals to identify their own businesses and the right of the public to be protected from the unrestricted proliferation of signs; and
- I. Signs are compatible with adjacent land uses and the total visual environment of the community.

18.50.020 Definitions.

As used in this chapter:

“Animated or flashing sign” means any sign or part of a sign which changes physical position by any movement or rotation, or which gives the visual impression of such movement by use of lighting, including blinking, chasing, scrolling or other animation effects, or signs which exhibit intermittent or sequential flashing of natural or artificial light or color effects.

“Awning” means a framed exterior architectural feature which is attached to and supported from the wall of a building and/or held up by its own supports, and which is covered with canvas, fabric, or other similar material as its primary surface, and which provides or has the appearance of providing shelter from the elements to pedestrians, vehicles, property, or buildings.

“Awning sign” means a sign that is painted on or otherwise attached to an awning that is otherwise permitted by ordinance.

“Balloon” means an airtight bag or membrane which is inflated with air or a lighter than air gas typically intended to rise or float above the ground.

“Banner” means a sign which is constructed of cloth, canvas, or other type of natural or man-made fabric, or other similar light material which can be easily folded or rolled, but not including paper or cardboard.

“Billboard, bench sign” or “off-premises sign” means a sign which directs attention to a business, product, service or entertainment conducted, sold or offered at a location other than on the premises on which the sign is located, but shall not include bus stop signs.

“Building frontage” means the side of the building which aligns with a street or parking lot.

“Building mounted sign” means any permanent sign fastened to or painted on any part of a building or structure in such a manner that the building is the supporting structure for or forms the background surface for the sign, including, but not limited to, wall signs, projecting signs, awning signs, and roof signs.

“Bus signs” means signs placed upon transit buses owned or operated by, or on behalf of the city pursuant to a written agreement with the city which sets forth the regulations for the size, content, placement, design and materials used for such signs. Bus signs shall not be considered “portable signs” as defined in Subsection P.1. of this section.

“Bus stop signs” means signs located on benches or shelters placed in the public rights-of-way or in private property adjacent to public rights-of-way at a bus stop pursuant to a written agreement with the city which sets forth the regulations for the size, content, placement, design and materials used in the construction of said signs, benches and shelters.

“Business” means an activity concerned with the supplying and distribution of goods and services.

“Business premises” means the land, site, or lot at which, or from which, a business is principally conducted, including off-street satellite parking areas or vehicle storage areas which are approved by the City as an accessory use for the business.

“Business vehicle identification sign” means a sign which is permanently mounted or otherwise permanently affixed to a vehicle, trailer or semi-trailer and which identifies the business, products or services with which the vehicle, trailer or semi-trailer is related. For purposes of this definition, magnetic and adhesive signs shall be considered as being permanently affixed. Bumper stickers and similar size adhesive decals shall not be considered business vehicle identification signs.

“Canopy” means a framed accessory structure or exterior architectural feature which is attached to and supported from a wall or held up by its own supports, which provides shelter from the elements to persons, vehicles, or property.

“Canopy sign” means a wall sign that is located on the roof, fascia, soffit, or ceiling of a canopy, and that is otherwise permitted by ordinance.

“Changeable copy sign” means a sign which displays words, lines, logos or symbols which can change to provide different information. Changeable copy signs include computer signs, reader boards with changeable letters and time and temperature units.

“Commemorative or memorial sign” means a sign, tablet or plaque commemorating or memorializing a person, event, structure or site.

“Construction sign” means a temporary sign erected on the premises on which construction, alteration or repair is taking place, during the period of active continuous construction, displaying the name and other relevant information about the project, and may include the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

“Dissolve” means a mode of message transition on an electronic message sign accomplished by varying the light intensity or pattern, where the first message gradually and uniformly appears to dissipate and lose legibility simultaneously with the gradual and uniform appearance and legibility of the second message.

“Election sign” means a non-illuminated sign relating to a candidate, issue, proposition, or other matter to be voted upon by the electors of the city.

“Electronic Message Sign” means a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means, including animated graphics and video.

“Fade” means a mode of message transition on an electronic message sign accomplished by varying the light intensity, where the first message gradually and uniformly reduces intensity to the point of not being legible and the subsequent message gradually and uniformly increases intensity to the point of legibility.

“Flying banner” means a type of temporary sign consisting of cloth, bunting, canvas or similar fabric, attached to a single vertical staff support structure with distinctive colors, patterns or symbolic logos for display.

“Freestanding sign” means any non-movable sign not affixed to a building, and is not a portable sign.

“Governmental sign” means a sign erected and maintained by or on behalf of the United States, the state, the county or the city for the purpose of regulating traffic or for civic purposes.

“Hazardous sign” means a sign which by reason of inadequate maintenance, dilapidation, or obsolescence creates a hazard to public health, safety or welfare.

“Historic sign” means a sign which has been designated as historic as provided in Subsection D of Section 18.50.150.

“Holiday decoration sign” means a temporary sign, in the nature of decorations, clearly customary and commonly associated with federal, state, local or religious holidays and contains no commercial message.

“Horizontal Profile” means a sign profile where the width of the sign is a minimum of 50% greater than the height of the sign.

“Identification sign” means a sign giving only the nature, logo, trademark or other identifying symbol, address, or any combination of the name, symbol and address of a building, business, development or establishment.

“Illegal sign” means any sign which was erected without a sign permit in violation of any of the ordinances of the city governing the same at the time of its erection and which sign has not been in conformance with such ordinances, including this Code, and which shall include signs which are posted, nailed or otherwise fastened or attached to or painted upon structures, utility poles, trees, fences or other signs.

“Indirect lighting” means a source of external illumination of any sign.

“Information Sign” means a sign which directs or regulates pedestrians or vehicle traffic within private property and includes information of a general directive or informational nature such as no parking, disabled parking, loading area, self-service, and rest rooms; which bears no advertising matter, and does not exceed two square feet of sign area per face.

“Joint identification sign” means a sign which serves as a common or collective identification for two or more uses on the same premises.

“Leading edge” means the point of a sign, including the sign support structure, closest to the public right-of-way.

“Legal nonconforming sign” means any sign for which a sign permit was issued and said sign was lawfully erected and maintained prior to the enactment of this chapter and any amendments thereto and which does not conform to all the applicable regulations and restrictions of this Code and any amendments thereto.

“Light bulbs” means incandescent bulbs used on a business or commercial premise and not a residential premise. This does not include holiday decorative lights.

“Logo” means, for the purposes of this chapter only, a symbol, image, insignia, word, word abbreviation, or initials which is designed for easy recognition, and which represents or identifies in graphic form, a nation or organization of nations, states or cities, or fraternal, religious and civic organizations or any educational institutions, irrespective of whether they are made of permanent, semi-permanent, or temporary materials.

“Menu board sign” means a wall or freestanding sign which lists the foods or other products available at drive-through facilities.

“Module” means a self-contained message component which is an integral part of a sign.

“Multi-tenant center” means one or more buildings, located on a single premise, containing two or more separate and distinct businesses or activities which occupy separate portions of the building with separate points of entrance, and which are physically separated from each other by walls, partitions, floors or ceilings.

“Nameplate sign” means a sign, located on the premises, giving only the name or address, or both, of the owner or occupant of a building or premises.

“Nonbacked or individual letter sign” means a wall sign consisting of individual letters, script or symbols without background other than a wall of a building or other structure.

“Noncommercial sign” means a sign which has no commercial content.

“Off-premises Sign.” See “Billboard, bench sign.”

“Pennant” means a type of temporary sign consisting of fabric, plastic, or metal strand drapery with distinctive colors, patterns, symbolic logos, or a series of narrow tapering flags for display.

“Portable sign” means a sign that is designed to be easily transportable, including but not limited to signs designed to be displayed while mounted or affixed to the trailer by which it is transported, or with wheels remaining otherwise attached during display; signs mounted on transportable frames with wheels removed; signs attached or affixed to a chassis or other moveable support constructed without wheels; signs designed as, or converted to, A-frame or T-frame signs; signs attached temporarily to the ground, a structure, or other signs; signs mounted on a vehicle and visible from the public right-of-way, including business vehicle identification signs; sandwich boards; and hot air or gas filled balloons which are not designed or approved for navigable flight.

“Premises” means an area of land occupied by the buildings or other physical uses which are an integral part of the activity conducted upon the land and such open spaces as are arranged and designed to be used in conjunction with that activity.

“Private sale or event sign” means a sign advertising a private sale of personal property such as a house sale, garage sale, rummage sale and the like.

“Project marketing sign” means a sign that is placed at one or more key locations within a project, which identifies the project and offers for sale, as part of the original marketing of the project, the lots, tracts, structures or units within the project.

“Projecting sign” means a sign that is wholly or partly dependent upon a building for support and which projects horizontally more than fifteen inches from such building.

“Real estate model home sign” means a sign identifying a model home and/or a temporary real estate sales office.

“Real estate open house sign” means a sign indicating that a building or portion of a building is available for inspection by prospective buyers or renters.

“Real estate sign” means a sign indicating only the availability for sale, rent or lease of a specific parcel, building or portion of a building and name, address and telephone number of owner or listing of real estate broker.

“Residential, commercial and industrial development identification sign” means a sign identifying only the name of a residential, commercial or industrial complex.

“Residential premise” means a lot or parcel of land containing a home or building used for dwelling purposes provided that the land is zoned for such use.

“Residential zoning district” means a property having one of the following Title 18 zoning designations: ER, R1e, R1, R2, R3e, R3 or a property zoned PUD where the property is designated exclusively for residential use by an approved site specific development plan.

“Roof sign” means a sign any portion of which projects above the top of the wall of a building, or is mounted on the roof of a building.

“Searchlight.” See “Animated or flashing sign.”

“Sign” means any object, device, or structure, or part thereof, situated outdoors or indoors, which is visible beyond the boundaries of the premises upon which it is located, and which advertises, identifies, directs or attracts the attention of the public to a business, institution, product, organization, event or location by any means, including, but not limited to, words, letters, graphics, fixtures, symbols, colors, motion, illumination and projected images.

“Sign face” means the area of a sign upon or through which the message is displayed.

“Sign structure” means and includes all supports, braces or other framework of a sign.

“Signable wall” means a wall of a building which is visible from a street, parking area or other public or private way.

“Street frontage” means a property line which abuts a public right-of-way that provides public access to or visibility to the premises.

“Temporary construction fence sign” means a temporary sign affixed to or incorporated into a construction fence for displaying advertisements, messages, logos, illustrations, and graphics related only to the associated property under construction.

“Temporary event sign” means a temporary sign advertising a community event sponsored by a governmental entity or not-for-profit entity that is limited only to one type of temporary sign that may include either a banner, balloon, flying banner, pennant, or valance.

“Temporary sign” means a sign which, due to the materials used; the method, manner or location of display; or the method of operation for display; is suited only for occasional, seasonal, or special event display, including, but not limited to, those signs regulated under Section 18.50.070.

“Top of wall” means the uppermost point of the vertical exterior surface of a building wall, excluding parapet wall in which case the top of wall shall be the top of the parapet wall or three feet above the roof, whichever is less.

“Valance” shall have the same definition as a pennant.

“Vehicular Sign.” See “Portable sign.”

“Wall sign” means a sign fastened to or painted on a wall of a building or structure in such a manner that the wall is the supporting structure for, or forms the background surface of the sign and which does not project more than fifteen inches from such building or structure.

“Window sign” means a sign that is applied to or attached to the exterior or interior of a window or located in such manner within a building that it is visible from the exterior of the building through a window, but excludes merchandise in a window display.

18.50.030 General sign regulations in all zones.

- A. Applies to all signs. The provisions in this chapter shall apply to all signs, except governmental signs and bus stop signs, but including signs not requiring a permit.
- B. Right-of-way. No sign shall be allowed in any public right-of-way except for projecting and wall signs which meet all the requirements under Section 18.50.100.
- C. Location. No sign shall be located on any premises other than the premise on which the use to which the sign applies is located except for election signs, real estate open house signs and works of art which are otherwise in compliance with the provisions of this chapter.
- D. Sight distance triangle. All signs located within the sight distance triangle as specified and illustrated in Section 3.03 of the Site Development Performance Standards and Guidelines shall be of pole construction with a twelve-inch maximum diameter of a pole, and a minimum distance from grade to the bottom of the sign of ten feet.
- E. Unimpaired traffic visibility. No sign shall be located to impair traffic visibility or the health, safety and welfare of the public. The direct or reflected light illuminating any sign shall not create a traffic hazard or otherwise be detrimental to public health, safety and welfare.
- F. More restrictive conditions may apply for uses by special review. For uses subject to special review pursuant to Chapter 18.40, the city may apply conditions on signs which are more restrictive than this chapter. However, in the approval of a use by special review, the provisions of this chapter shall be met and any request for deviation from the provisions as contained in this chapter shall be required to go through the variance process as specified in Chapter 18.60.

18.50.040 Measurement of sign dimensions in all zones.

- A. Sign area (face) measurement. The sign area (face) shall be measured by including within a single continuous rectilinear perimeter of not more than eight straight lines which enclose the extreme limits of writing, representation, lines, emblems, or figures contained within all modules together with any air space, materials or colors forming an integral part or background of the display or materials used to differentiate such sign from the structure against which the sign is placed. Architectural features, structural supports and landscape elements shall not be included within the sign area. For the purpose of determining sign area and the allowable number of wall signs, a module, word, logo, or similar media of communication, which by itself identifies a product, manufacturer, business, or service, or conveys a complete thought or message, constitutes a sign, and the surface area between such signs is not considered to be an integrated part of the sign.
- B. Freestanding base measurement. The sign area of a freestanding sign shall include, in addition to the sign face area, any portion of the freestanding sign structure which exceeds one and one-half times the area of the sign face. The base shall be any structural component of the sign, including raised landscape planter boxes.
- C. All sign faces counted. All sign faces shall be counted and considered part of the maximum total sign area allowance.
- D. Freestanding sign setback measurement. The required setback for freestanding signs shall be the distance between the sign's leading edge and the closest ultimate face of curb or edge of pavement.

- E. Sign height measurement. The height of a sign is the vertical distance measured from either the elevation of the nearest public or private sidewalk within twenty-five feet of the sign, to the upper most point of the sign structure, including architectural appendages, or from the lowest grade within twenty-five feet of the sign to the upper most point of the sign structure, including architectural appendages, whichever is lower.
- F. Awning sign measurement. All writing, representations, emblems, or figures forming an integral part of a display used to identify, direct, or attract the attention of the public shall be considered to be a sign for purposes of measurement.

18.50.050 Signs not subject to permit – Exempt signs.

There is community interest in allowing certain types of signs to be erected without a permit. Due to their temporary nature and limited aesthetic impact, the following signs may be erected without a sign permit so long as they meet all applicable standards of this chapter, and construction and safety standards of the city:

- A. Business vehicle identification signs.
- B. Commemorative signs which do not exceed a total of two square feet. Only one commemorative sign per premises shall be exempt.
- C. Construction signs. One construction sign per street frontage per premises that does not exceed sixteen square feet in residential zoning districts or thirty-two square feet in nonresidential zoning districts.
- D. Election signs. Any number of election signs are allowed on property in a residential district, provided such signs do not exceed four square feet in area per face. Any number of election signs are allowed on property in a nonresidential or mixed-use district, including property designated for non-residential use or mixed use in the PUD district, provided such signs do not exceed thirty-two square feet in area per face. Election signs may be displayed a maximum of ninety days prior to the applicable election and must be removed within ten days after the applicable election.
- E. Flags:
 - 1. Flags of the United States;
 - 2. Flags and insignias of the state, the city, Larimer County, governmental agencies, and nonprofit organizations exempt from federal tax, when displayed on premise, and where no single side exceeds forty-eight square feet in area;
 - 3. Except as provided in Section 18.50.050E.4., no more than three flags shall be exempt for each premise. Any additional flag shall be subject to a sign permit and the square footage shall be included in the sign area measurement for a freestanding sign.
 - 4. Upon written request, the current planning manager may authorize additional flags on a premise provided that the flags are not used as a sign, as defined in this chapter, and are compatible within the context of the premise and the surrounding neighborhood. Any final decision of the current planning manager may be appealed to the planning commission in accordance with Chapter 18.80.
- F. Holiday decoration signs.
- G. Information signs.
- H. Logos, provided they are not used in connection with a commercial promotion or as an advertising device.
- I. Nameplate signs that do not exceed a total of two square feet in area. Only one name plate sign per street frontage shall be exempt.
- J. Noncommercial signs that do not exceed one per premises and are not more than six square feet of sign area per face and six feet in height.

- K. Private sale signs. One on-premises private sale sign per street frontage that does not exceed four square feet per face. Private sale signs shall be displayed only during the sale or event specified.
- L. Real estate signs. One real estate sign is permitted per street frontage on the property being advertised. Real estate signs in residentially zoned districts shall not exceed eight square feet of sign area per face and six feet in height, except signs on vacant residentially zoned lots shall not exceed sixteen square feet of sign per face and six feet in height. Real estate signs in non-residentially zoned districts shall not exceed thirty-two square feet of sign area per face and seven feet in height. All surfaces incorporated into the sign and sign structure including, but not limited to, pole covers, monument style sign bases, and background surfaces shall be counted in the allowable sign area.
- M. Real estate model home signs. One real estate model home sign and a maximum of two flying banners are permitted per street frontage of the premise on which a model home or a temporary real estate sales office is located. Real estate model home signs shall not exceed thirty-two square feet of sign area per face; free-standing real estate model home signs are limited to six feet in height and wall mounted real estate model home signs shall not extend above the top of the wall or parapet wall of the building to which the wall sign is attached. Flying banners shall not exceed a dimension of four feet in width, thirteen feet in height and twenty-five square feet in total size. All surfaces incorporated into a real estate model home sign and sign structure including, but not limited to, pole covers, monument style sign bases, and background surfaces shall be counted in the allowable sign area.
- N. Real estate open house signs. A maximum of six real estate open house signs are allowed for an open house event and such signs shall be displayed only on the day of the open house and the day prior to the open house. On-premise or off-premises display of real estate open house signs is permitted, but display in the public right-of-way is prohibited. Real estate open house signs shall not exceed six square feet of sign area per face and four feet in height. Pennants and balloons may be affixed to real estate open house signs provided that such attachments do not encroach upon street or sidewalk right-of-way or create a street or sidewalk safety hazard; balloons that are affixed to real estate open house signs shall not have a vertical or horizontal dimension greater than two feet.
- O. Window signs, except as provided in Section 18.50.060.
- P. Works of art. Fine art which in no way identifies a product, business or enterprise and which is not displayed in conjunction with a commercial enterprise that would realize direct commercial gain from such display.

18.50.060 Prohibited signs.

The following signs are not permitted in any zoning district except as provided in Section 18.50.070:

- A. Animated or flashing signs, with the exception of electronic message signs meeting the requirements of Section 18.50.100A.4., either inside or outside a building and which are visible from a public right-of-way; and with the exception of traditional barber poles and searchlights as provided in Section 18.50.070;
- B. Roof signs. Except as part of a planned sign program as provided for in Section 18.50.100B.;
- C. Off-premise signs, including without limitation, off-premise electronic message signs and off-premise animated or flashing signs, with the exception of election signs and real estate open house signs that are otherwise in compliance with the provisions of this chapter;
- D. Portable signs, except for signs that comply with the provisions of Sections 18.50.070 and 18.50.075;
- E. Light bulbs. Except as part of a planned sign program as provided for in Section 18.50.100B. or temporary signs as provided for in Section 18.50.070;

- F. Freestanding signs made of paper or other impermanent material. Signs of a nonpermanent nature such as cardboard, paper, cloth, plastic, or similar material except as provided in Section 18.50.070;
- G. Signs in the public rights-of-way, except as provided in Section 18.50.030B.

18.50.070 Temporary signs.

- A. Purpose. Temporary sign regulations are established to provide businesses and non-residential uses with the opportunity to advertise occasional, seasonal, or special events. These regulations are intended to control the visual impacts to the community of such advertisements, and to provide consistency with the spirit and intent of this title and the vision statements of the Comprehensive Plan. Temporary signs shall under no circumstance be substituted for permanent signage or be situated to screen permanent signage on an adjacent lot or premise. These temporary sign provisions shall only apply to businesses and non-residential uses. These provisions shall not be applicable to signs listed under Section 18.50.050.
- B. Temporary signs subject to a permit.
 - 1. For all businesses and non-residential uses, the following sign types are permissible:
 - a. Banners
 - b. Balloons
 - c. Pennants
 - d. Valances
 - e. Flying banners
 - f. Any sign device which operates from an external power source including but not limited to searchlights, balloons, and animated signs
 - 2. Permit and duration.
 - a. All permissible temporary signs as specified in Section 18.50.070B.1. shall require the approval of a temporary sign permit application by the building division.
 - b. Temporary sign permit applications shall be made in increments of fifteen consecutive days. A maximum of four temporary sign permits may be issued to an individual business or non-residential use per calendar year and may be approved in succession. The maximum cumulative display for all permitted temporary signs shall not exceed sixty days per calendar year unless a variation is approved under Section 18.50.070E.
 - 3. Number. No more than two of the sign types specified in Section 18.50.070B. of this chapter shall be permitted on a lot or premise for an individual business or non-residential use.
 - 4. Sign area and location.
 - a. Banners: A banner or banners must not cumulatively exceed one-hundred square feet in total sign area and shall be attached to an exterior building wall. All portions of such banner(s) shall be in contact with the building wall, and shall not flap, extend beyond the wall nor be fastened to support structures.
 - b. Balloons: Except as allowed in Section 18.50.070D.1.a., Balloons shall not exceed a total maximum dimension of ten feet, inclusive of a base. Attaching Balloons to tethers is permitted providing the tether is no greater than fifteen feet in length. Balloons must be secured to a building, structure, stable object, or the ground and shall not extend beyond the boundaries of the lot or premise. Balloons shall not be attached to trees or shrubs planted within the lot or premise.
 - c. Pennants and valances: A single pennant or valance strand shall not exceed fifty feet in length. Each pennant or valance strand must be secured to a building, structure, stable object, or the ground at both ends. Pennant and valance strands shall not be attached to trees or shrubs planted within the lot or premise.

- d. Flying banners: Except as allowed in Section 18.50.070D.1.b., each flying banner shall not exceed twenty-five feet in height inclusive of the staff or support structure and seventy-five square feet in size. Flying banners are to be attached to a single vertical staff support structure only. The support structure may be mounted securely to a building, structure, stable object, or the ground. Flying banners shall not extend beyond the boundaries of the lot or premise. Flying banners shall not be attached to trees or shrubs planted within the lot or premise.
 - e. Sign devices operated from an external power source: Sign devices operated from an external power source shall comply at all times with the city's noise ordinance. These types of temporary signs shall be secured to the ground and limited to twenty-five feet in height providing they do not extend beyond the boundaries of the lot or premise. The lighting component for searchlights must be projected upward so as not to diminish public safety and welfare.
- 5. Lighting. Temporary signs may only be illuminated indirectly by means of a separate light source (excluding searchlights). It shall be demonstrated that no off-site impacts associated to glare will occur by indirectly illuminating a temporary sign. The light source shall also comply with applicable provisions of the Site Development Performance Standards and Guidelines.
- C. Maintenance. All temporary signs shall be kept neatly finished and repaired, including all parts and supports. The building official and/or an authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.
- D. Temporary signs not subject to permit.
 - 1. The following temporary signs shall not require a permit and shall not be limited in number or duration upon a lot or premise associated to a business or non-residential use, unless specified otherwise. Internal or external illumination for these specific signs shall be strictly prohibited.
 - a. Balloons which do not have maximum horizontal or vertical dimension greater than two feet;
 - b. Flying banners placed within a lot or premise, providing no more than four are installed and each individual flying banner does not exceed a maximum of ten feet in height and twenty-five square feet in total size;
 - c. Temporary construction fence sign as defined in Section 18.50.020, provided the sign does not extend above the fence;
 - d. Temporary event sign as defined in Chapter 18.50.020 subject to Section 18.50.070B.4. and limited to a duration of no more than five days;
 - e. Portable signs as defined in this chapter limited to A-frame or T-frame signs which do not exceed six square feet and have a maximum height of four feet. These portable signs shall be located within ten feet of the business entrance and allow for a minimum unobstructed access width of five feet along all sidewalks. For the purpose of this section, portable A-frame or T-frame signs shall not be placed in a public right-of-way; and
 - f. Any signage device similar to those described in items a. through e. above if so determined and approved in writing by the current planning manager.
 - 2. Internal or external illumination for the signs listed in Subsection D.1. above, shall be strictly prohibited.
- E. Administrative allowances.

1. Variations from these temporary sign provisions relating to the duration and location may be provided by the current planning manager. Such variations may only be provided to businesses operating at a new location for less than six months or for businesses which have poor visibility from the street. To obtain a variation, the applicant must make a written request and demonstrate the following:
 - a. A substantial hardship exists in carrying out the provisions of this chapter; and
 - b. The spirit and intent of this chapter will be secured in granting a variation.
 2. Variations will be considered on a case-by-case basis. The current planning manager may impose conditions to ensure that the intent of this chapter is maintained. Appeal of the current planning manager's decision shall follow the procedures outlined in Chapter 18.80.
- F. Enforcement. Any unauthorized deviation from this chapter shall be subject to the enforcement, legal procedures and penalties as described in Chapter 18.50.170.

18.50.075 Business vehicle identification signs.

- A. Due to their aesthetic and economic impact, especially along business corridors and other major streets and highways, the following specific regulations for signs on business vehicles are necessary to carry out the purposes of this chapter. The following specific regulations shall not be applicable to signs on government and emergency vehicles. Business vehicle identification signs shall comply with the following standards:
1. The vehicle, trailer, or semi-trailer (vehicle) to which a business vehicle identification sign is mounted, painted, or otherwise affixed: (i) must be regularly used to provide the services or products offered by the business with which the sign is related; (ii) must be used for the regular operation of the business; and (iii) must not be primarily used to display signage.
 2. The vehicle to which a business vehicle identification sign is mounted, painted or otherwise affixed must be parked on the business premises with which the sign is related and in no case any closer than fifty feet to the public right-of-way; provided that if there is no parking on the business premises, the vehicle shall be legally parked.
 3. A business vehicle identification sign shall not project more than one foot above the roofline of the vehicle to which it is mounted, painted, or otherwise affixed.
 4. It shall not be a violation of this Section 18.50.075 if the vehicle to which a business vehicle sign is mounted, painted or otherwise affixed is being used to travel home from work and is temporarily parked at or near the vehicle operator's residence or is otherwise temporarily parked away from the business premises while being used to provide the business' services or products or as personal transportation for the vehicle operator.

18.50.080 Residential, commercial, and industrial project identification signs.

- A. Sign area. The maximum sign area of a residential, commercial or industrial project identification sign shall be thirty-five square feet. The sign area shall only include the extreme limits of lettering, except when the surface area of the structure to which the sign is attached or affixed exceeds one and one-half times the area of the sign face, in which case all additional surface area will be included in the sign area measurement. The foregoing notwithstanding, this limitation shall not be applied when the sign is attached or affixed to a landscape planter bed constructed with quality design and materials such as masonry, timbers, or natural stone which has been approved by the current planning division for the site, and meets the intent of the Site Development Performance Standards and Guidelines. This limitation shall also not be applied when the sign is attached or affixed to a building which has been approved for the site by the current planning division. Logos of residential, commercial, or industrial projects up to four square feet in size shall not be counted as part of the sign area.

- B. Number. There shall be no more than two signs per project entry from an arterial or collector street as defined in the city's master street plan. Commercial and industrial project identification signs shall be counted as a freestanding sign for the premises on which it is located.
- C. Design. Wall signs shall be designed to present a unified and coordinated appearance, and be integrated into the overall design of the wall. The following sign characteristics shall be considered when identifying unity, coordination and integration: material, color, height, shape, and location on the wall.
- D. Height. Freestanding signs shall be a maximum of six feet in height.
- E. Lighting. Any lighting shall be indirect.
- F. Maintenance. All applicants shall provide adequate assurance acceptable to the city that the sign and the lot on which it is located will be maintained.

18.50.085 Project marketing signs.

- A. Sign Area. The maximum sign area for a project marketing sign in residential zones and residential PUDs shall be fifty square feet. The maximum sign area for a project marketing sign in non-residential zones and non-residential PUDs shall be seventy-five square feet. The sign area shall include only the extreme limits of lettering and depictions, except when the surface area of any structure to which the sign is affixed exceeds fifty percent of the area of the sign face, in which case all additional surface area will be included in the sign area measurement. Monument style sign bases and pole covers shall be included in calculating all such additional surfaces which are subject to the fifty percent limitation.
- B. Number. There shall be no more than one sign per project entry from any adjacent street and no more than two signs per project or phase of a project.
- C. Height. Project marketing signs shall be no more than twelve feet in height.
- D. Lighting. Any lighting shall be indirect. All lighting shall be aimed and/or shielded to insure that no direct light is seen upon the driving surface of any streets or upon any nearby residential properties.
- E. Duration. Signs shall be allowed to remain for no more than two years following commencement of construction of the public improvements within the project, unless a written request to extend this time period is approved by the current planning manager.
- F. Location. Signs shall be located within the boundaries of a project or premise which is part of the original marketing of the lots, tracts, structures or units. For projects within a mixed use planned unit development, the premise shall constitute the boundaries of the entire planned unit development.
- G. Maintenance. All applicants shall provide adequate assurance acceptable to the City that the sign and the lot or tract upon which it is located will be maintained in good condition at all times.

18.50.090 Sign regulations for nonresidential uses in a residential zone.

- A. General. Except as provided for in this section, all signs for nonresidential uses in residential zoning districts shall be limited to twenty square feet in size per face, unless otherwise approved in conjunction with a special review for the primary use. All such signs shall be unlit or indirectly lit. All lighting shall be aimed and/or shielded to insure that no direct light is seen upon any nearby street or upon any nearby residential property.
- B. Subdivision sales office. A subdivision sales office shall be entitled to one illuminated sign not to exceed ten square feet in size.
- C. Project marketing sign. A residential development shall be entitled to at least one project marketing sign, in accordance with the provisions of Section 18.50.085.
- D. Home occupation sign. No signs are allowed in conjunction with any home occupation, except for properties within the North Cleveland Sub-Area, as defined in Section 18.16.110, which shall

be permitted one sign on North Cleveland Avenue subject to the standards contained in this section.

18.50.095 Sign setback from adjacent residentially zoned land.

Any sign which requires a permit and which is accessory to a non-residential use adjacent to a residentially zoned property, shall be located at a point that is furthestmost from the residential property unless such sign is not visible from the residentially zoned property, provided that the sign is also located in a yard that is adjacent to any abutting streets.

18.50.100 Sign regulations in nonresidential zones.

The following regulations shall apply to all uses in nonresidential districts. Included are Be, B, I, MAC, E, and DR districts. In addition, within the downtown development authority boundary, all signs shall comply with Section 18.50.110, and along Interstate Highway-25 (I-25), all signs shall comply with chapter 8 of the Site Development Performance Standards and Guidelines and Section 18.50.120. All signs allowed pursuant to this section shall have their sign area applied to the total allowable sign area.

- A. Basic sign regulations. Every business desiring signs as allowed by right in this Code may apply for a sign permit and a permit shall be issued if all the provisions in this section are met.
 1. Total allowable sign area.
 - a. The total sign area for all permitted signs shall not exceed two square feet per linear foot of building frontage for the first two hundred linear feet of building frontage, plus one square foot per linear foot of building frontage thereafter. No more than two sides of a building may be counted as building frontage. The total sign area for all sign faces shall be deducted from the total allowable sign area.
 - b. However, each premises shall be at a minimum entitled to one freestanding sign per street frontage of fifty square feet per face and one wall sign per street frontage of thirty-two square feet in size so long as all other requirements of the sign code are met. Each business within a multi-tenant center shall be entitled to one wall sign per street frontage of thirty-two square feet in size.
 - c. If permits are approved by the city for signs based on the minimum provisions of Subsection b. above, the allowable sign area based on the building frontage as set forth in Subsection a. above shall not be recognized by the city as allowable sign area.
 2. Freestanding signs.
 - a. Number: one per street frontage per premise located on each street frontage except with an approved planned sign program;
 - b. Sign area: all freestanding signs which are setback eight feet or less from face of curb or edge of pavement shall be entitled to twenty-seven square feet of sign area. All freestanding signs setback more than eight feet from face of curb or edge of pavement shall be allowed 3.3 square feet of sign area per foot of setback up to a maximum of one hundred square feet per face. The maximum sign area of all faces of a freestanding sign shall be two times the maximum sign area per face allowed based on setback;
 - c. Height: eight feet in height for the first eight feet of setback from face of curb or edge of pavement then one foot of height for each foot of setback thereafter up to a maximum height of twenty-five feet. However, should it be adequately demonstrated that the only feasible location for a freestanding sign is within the clear vision triangle due to the location of existing buildings, entrances and parking, or shallowness of the lot, staff may allow a freestanding sign up to a maximum height of fourteen feet;

- d. Setback: for purposes of determining the allowable sign area and height of a freestanding sign, the setback of a freestanding sign shall be measured from the face of curb or edge of pavement;
 - e. Location: all freestanding signs shall be located on the premises so as to be compatible with required landscaping, including street trees at maturity, so that the public's view of the sign will not be obstructed;
 - f. Sign modules: maximum of three;
 - g. Changeable copy: if an electronic message sign module is used, the module shall comply with the provisions in Section 18.50.100A.4.;
 - h. Freestanding sign area bonus: to encourage design excellence, the maximum sign area for freestanding signs if the freestanding sign is located entirely within a landscaped area. There shall be a maximum bonus of twenty percent for freestanding signs:
 - i. Integration with building structure: a ten percent bonus shall be provided if the freestanding sign is designed to integrate with the building structure. The sign will be considered integrated if the same or similar building materials and colors are used. If discrepancy occurs, the current planning manager shall make the final decision.
 - ii. Landscaping: A ten percent bonus shall be provided if the freestanding sign is located entirely within a landscaped area. The bonus shall be granted if a minimum of four square feet of landscaping is provided for every one square foot of sign face. Only one face of the sign shall be counted. The portion of the sign on the ground shall not count toward landscaped square footage. To count as landscaping, seventy-five percent of the sign area landscaping shall be live plant cover within three years of normal plant growth. The percentage of live plant cover may be reduced to fifty percent when used in conjunction with a rock mulch of river cobbles of varying sizes; or forty percent when used in conjunction with flagstone, patterned concrete, brick pavers, or exposed aggregate concrete. If the freestanding sign is integrated into a raised planter box, the landscape area may be reduced to one square foot of landscaping for every one square foot of sign area to qualify for the bonus.
3. Building mounted signs. Each business shall be entitled to no more than one building mounted sign per signable wall. Building mounted signs may only be installed on a signable wall which adjoins that portion of the building occupied by the business or use with which the sign is associated;
- a. Wall Signs.
 - 1. Size: no wall sign shall exceed one hundred square feet in sign area;
 - 2. Height: no wall sign or sign support shall extend above the top of wall or parapet wall of the building to which the wall sign is attached. Wall signs shall be allowed on a mansard-style roof, provided the roof is constructed at an angle of not less than forty-five degrees, as measured from the horizontal plane, and in such a manner that the sign is not silhouetted against the sky as viewed five feet above grade at the property line;
 - 3. Wall sign bonus: a ten percent sign area bonus shall be provided if all wall signs within a single or multi-tenant center are individual lettered signs.
 - b. Projecting signs.
 - 1. Location: No projecting sign is allowed to be located on the same street frontage as a freestanding sign;
 - 2. Sign area: projecting signs shall not exceed fifteen square feet in sign area per face with a maximum of thirty square feet for all faces;
 - 3. Projection: projecting signs shall not extend more than five feet from a building nor extend beyond the curblines of any street or off-street parking area;

4. Clearance: projecting signs shall provide a minimum of eight feet of clearance from the ground to the bottom edge of the sign when located over a public or private sidewalk;
5. Height: the maximum height of projecting signs shall be twenty-five feet and shall not extend above the roof peak or parapet wall of the building to which it is attached.
- c. Awning signs.
 1. Location: awning signs shall not be allowed above the first story of a building;
 2. Sign area: the maximum amount of sign area allowed on an awning per street frontage shall be fifty square feet excluding banding and striping;
 3. Clearance: when extended over either a private or a public sidewalk, the minimum clearance from the lowest point of the awning to the top of pavement shall be eight feet. No awning sign shall be allowed to project over a private or public vehicular way.
4. Electronic message signs. Electronic message signs shall be subject to the following limitations:
 - a. The displayed message shall not change more frequently than once per five seconds.
 - b. The sign shall contain static messages only, changed only through dissolve or fade transitions, but which may otherwise not have movement, or the appearance or optical illusion of movement or varying light intensity, of any part of the sign structure, design or pictorial segment of the sign. The change of messages using a dissolve or fade transition shall not exceed of 0.3 seconds of time between each message displayed on the sign.
 - c. The sign shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare. Lighting from the message module shall not exceed six hundred nits (candelas per square meter) between dusk to dawn as measured from the sign's face. Applications for sign permits containing an electronic display shall include the manufacture's specifications and nit (candela per square meter) rating. City officials shall have the right to enter the property and view the programmed specifications of the sign to determine compliance with this provision in accordance with Chapter 1.08.
 - d. The area of the electronic message sign display shall not exceed fifty percent of the total sign face.
 - e. Commercial messages displayed on the module shall not direct attention to a business, product, service or entertainment conducted, sold or offered off the premise that is not also conducted, sold, or offered on the premise on which the sign is located.
 - f. All existing electronic message signs that contain an electronic changeable copy module which does not comply with the provisions of this section shall be made to conform to the brightness and duration of copy provisions upon the effective date of the ordinance approving such provisions.
 - g. Electronic message signs within the Highway 34 corridor, as defined in the U.S. 34 Corridor Plan, shall be permitted only within a planned sign program for commercial centers on premises directly abutting Highway 34 for more than five hundred lineal feet, provided that the maximum sign area for the electronic message module shall not exceed fifty percent of the total sign face and the sign shall comply with the provisions in this section.
 - h. A request for variance to the maximum sign area, height or setback for a sign containing an electronic message module shall be heard by the zoning board of adjustment in accordance with the procedures specified in Chapter 18.60. In addition to the findings specified Section 18.60.040, before granting any request, the board shall find that:

1. The proposed area, setback and/or height of the electronic message sign module is the minimum required to be fully visible from the adjacent arterial or interstate roadway right-of-way;
 2. Traffic safety conditions will not be diminished by the increased square footage, increased height or decreased setback of the electronic message sign module; and
 3. There are no reasonable alternatives to the increased size, height, setback and/or design of the electronic message sign.
- i. Every person found guilty of violating any provision of this section shall be subject to the penalty provisions provided in Section 1.1.2.010. Notwithstanding the penalty provisions in Chapter 1.12.010, a violation of any provision of this section shall result in the following: The first offense shall result in a written notice and order to the property owner specifying the cause of violation and shall provide a twenty-four hour period to bring the sign into compliance with the standards of the Code. A second offense within a one year period shall result in a summons into municipal court. If judgment is entered for a violation of this section, a mandatory minimum fine of five hundred dollars shall be imposed. If judgment is entered for any subsequent violations within a one year period, a mandatory minimum fine of one thousand dollars shall be imposed.
- B. Planned sign program regulations. Owners or tenants of a premise desiring signs which vary from the basic sign regulations as contained in Section 18.50.100A., may apply for approval of a planned sign program for the entire premises.
1. Total allowable sign area. The total allowable sign area for all signs shall be based upon the requirements contained in Subsection A.1. of this section.
 2. Freestanding signs.
 - a. Number: one per street frontage per premise. For a premise with more than five hundred feet of street frontage, one additional freestanding sign shall be allowed;
 - b. Sign area: 3.3 square feet of sign area per foot of setback up to a maximum of one hundred square feet per face. The maximum sign area of all faces of a freestanding sign shall be two times the maximum sign area per face allowed based on setback;
 - c. Height: one foot of height for each foot of setback up to a maximum height of twenty-five feet;
 - d. Setback: for purposes of determining the allowable sign area and height of a freestanding sign, the setback of a freestanding sign shall be measured from the face of curb or edge of pavement;
 - e. Location: all freestanding signs shall be located on the premises so as to be compatible with required landscaping, including street trees at maturity, so that the public's view of the sign will not be obstructed;
 - f. Freestanding sign area bonus: to encourage design excellence, the maximum sign area for freestanding signs for all nonresidential uses as set forth in this section may be increased by the percentages shown in this section if the criteria are met. There shall be a maximum bonus of twenty percent for freestanding signs:
 - i. Integration with building structure: a ten percent bonus shall be provided if the freestanding sign is designed to integrate with the building structure. The sign will be considered well integrated if the same or similar building materials and colors are used. If discrepancy occurs, the current planning manager shall make the final decision.
 - ii. Landscaping: a ten percent bonus shall be provided if the freestanding sign is located entirely within a landscaped area. The bonus shall be granted if a minimum of four square feet of landscaping is provided for every one square foot of sign face. Only one face of the sign shall be counted. The portion of the sign on the ground shall not

count toward landscaped square footage. To count as landscaping, seventy-five percent of the sign area landscaping shall be live plant cover within three years of normal plant growth. The percentage of live plant cover may be reduced to fifty percent when used in conjunction with a rock mulch of river cobbles of varying sizes; or reduced forty percent when used in conjunction with flagstone, patterned concrete, brick pavers, or exposed aggregate concrete. If the freestanding sign is integrated into a raised planter box, the landscape area may be reduced to two square feet of landscaping for every one square foot of sign area to qualify for the bonus.

- g. Separation: minimum seventy-five linear feet between any two freestanding signs;
 - h. Sign modules: a maximum of three;
 - i. Changeable copy: changeable copy signs may be allowed as part of a freestanding sign subject to Section 18.50.100A.4. and, for signs abutting I-25, Section 18.50.120.
3. Building mounted signs. The maximum sign area per signable wall for all combined building mounted signs shall be fifteen percent of the wall surface area, including only the first story of the building. Building mounted signs may only be installed on a signable wall which adjoins that portion of the building occupied by the business or use with which the sign is associated.
- a. Wall sign.
 - i. Number: no limit with approval of a planned sign program;
 - ii. Size: a maximum of one hundred fifty square feet per signable wall for each business;
 - iii. Height: no wall sign or sign support shall extend more than one-third the width of the sign above a roof peak or above a parapet wall of a building to which the wall sign is attached. No sign shall be allowed on a roof with an angle less than forty-five degrees, as measured from the horizontal plane, or in such a manner as to be silhouetted against the sky as seen from the nearest street except as provided in this section;
 - iv. Wall sign bonus: a ten percent bonus in sign area shall be provided if all wall signs within a single or multi-tenant center are individual lettered signs.
 - b. Projecting sign.
 - i. Number: one projecting sign per wall per business with approval of planned sign program;
 - ii. Size: projecting signs shall not exceed fifty square feet per face with a maximum total of one hundred square feet for all faces;
 - iii. Projection: projecting signs shall not extend more than ten feet from the building nor extend beyond the curbline of any street or off-street parking area;
 - iv. Clearance: projecting signs shall provide a minimum of eight feet of clearance from the ground to the bottom edge of the sign when located over a public or private sidewalk; and
 - v. Height: the maximum height of projecting signs shall not extend above the top of the wall or parapet wall of the building to which it is attached.
 - c. Awning Signs.
 - i. Location: awning signs shall not be allowed above the first story of a building;
 - ii. Sign-area: all signs on awnings shall be integrated into the overall design of the awning so as to present a unified appearance; and
 - iii. Design: whenever a sign is placed on an awning, the awning shall be integrated into the overall design of the building to present a unified architectural theme.
4. Freestanding directory signs. Freestanding directory signs are allowed on premises with more than four uses and provided that each of the following are met:

- a. Number: one directory sign shall be allowed per pedestrian entry, not to exceed two directory signs per project;
 - b. Sign area: the maximum sign area shall be twelve square feet per sign face, with a maximum of twenty-four square feet for all faces;
 - c. Height: directory signs shall not exceed six feet in height; and
 - d. Setback: directory signs shall be setback a minimum of fifty feet from a public right-of-way and shall be located to best serve its intended function.
5. Menu boards. both freestanding and wall menu board signs are allowed in conjunction with restaurant drive through, under the following restrictions:
 - a. Number: the maximum number of menu board signs allowed per site shall be two;
 - b. Sign area: the maximum sign area of a menu board shall be twenty-five square feet. For wall-mounted menu board signs, this area shall be in addition to all other wall-mounted signs; and
 - c. Height: the maximum height of a menu board sign shall be six feet.
6. Entry/Exit Signs. Entry/exit signs which contain advertising material provided the entry/exit sign does not exceed four square feet and the area in advertising is included in the allowable square footage for freestanding signs.
7. Flags or pennants may be located on the tops of walls of a building so long as they are fixed to permanent poles no more than three feet in height and are architecturally integrated into the design of the building and into the sign program. No more than four such flags or pennants may be displayed on each wall of the building. All faces of such flags or pennants will be counted as part of the allowable sign area.
8. Planned sign program requirements. An application form for a planned sign program shall include allowable square footage, sign locations, sizes, materials, colors, lighting, lettering type and structural support, and such other information as may be requested by the planning division. The application shall be signed by the property owner or the authorized representative of the property owner of the premise for which the application has been submitted. The sign program shall be designed to show unity and coordinate all signs within the project to a building and all other signs on the premise. The following sign characteristics shall be considered when identifying unity and coordination: material, color, height, lettering style, sign type, shape, lighting, and location on a building.
9. Review procedure. The planning division shall review the planned sign program and shall approve the application if it meets the findings required in Subsection B.11. of this section.
10. Findings required. A planned sign program shall not be approved unless the planning division finds that the proposed signs are unified and coordinated with:
 - a. Other signs included in the planned sign program. This shall be accomplished by incorporating four common visual design elements chosen by the applicant such as material, letter style, colors, illumination, sign type, sign shape, or location on a building;
 - b. The buildings they identify. This may be accomplished by utilizing materials, colors, or design motif included in the building being identified;
 - c. When awning signs are used as part of a planned sign program, color must be incorporated as one of the approved four visual design elements.
11. Appeal of a current planning division decision. Should the applicant for a planned sign program not be satisfied with the decision of the current planning division, the applicant shall have the right to appeal the final decision to the planning commission in accordance with Chapter 18.80. The decision of the current planning division shall be upheld unless the planning commission finds that the current planning division findings are clearly erroneous, arbitrary, or capricious.

18.50.110 Sign regulations for structures with minimal building setback along a street right-of-way or in the downtown sign district.

This section shall apply when a building or structure is setback fifteen feet or less from face of curb or edge of pavement and/or within the boundary of the Downtown Sign District, which boundary is identified on Appendix A to this chapter.

- A. Number of signs. Except as otherwise specified in this section, a premises with a structure which is setback fifteen feet or less from face of curb or edge of pavement shall be allowed one wall sign per street frontage pursuant to Section 18.50.100A. In addition to the allowance for one wall sign, such premise shall also be allowed to display sign messages on the front and/or side valance flap of an awning (Figure 18.50.110 -1) provided the total wall and awning sign area does not exceed the total sign area limitations of this section. Such awning signs shall be coordinated with the display of wall signs to provide easy readability of signs for both pedestrians and vehicles and shall comply with other standards of this section. The color of an awning sign shall be compatible with and complementary to the color and material of the building to which it is attached. Additionally, a planned sign program pursuant to Section 18.50.100B., may be allowed with no specific limit on the number of signs so long as the cumulative total of area in signs does not exceed the total area allowed pursuant to this section.
- B. Area of signs. Except as otherwise specified in this section, the total cumulative sign area for a structure which is setback fifteen feet or less from face of curb or edge of pavement shall be ten percent of the first floor facade area, or thirty-two square feet, whichever is greater. For multistory buildings, only the facade area for the first story shall be used to calculate the allowed sign area.
- C. Downtown signs. All signs within the boundary of the Downtown Sign District shall also comply with the provisions of this section.
 1. Historical context and pedestrian scale. All signs allowed pursuant to this section shall be designed and integrated into the architecture of a building and street so as to enhance and preserve the historic character of the downtown area. Through appropriate design, signs can help recapture a sense of time and place in the downtown. Signs shall be designed at two levels to be most effective: (a) from the vantage point of a driver of an automobile traveling at ten mph, and (b) from the sidewalk at pedestrian scale.
 2. Architectural compatibility of signs. All signs allowed pursuant to this section shall be compatible and harmonious with the architectural style of a building and adjacent signs. For purposes of interpretation, a harmonious sign shall mean a sign which lends itself in character, material, color, design and style to a building and environment in which it is located.
 3. Downtown Sign Design Guidelines. The design guidelines for downtown Loveland shall be used when approving any sign within the Downtown Sign District.

18.50.115 Portable signs – Downtown Sign District.

- A. Portable signs allowed: For properties located within the boundaries of the Downtown Sign District, one portable sign shall be allowed. Such portable signs are intended to be directed at pedestrian traffic, shall minimize disruption of vehicular and pedestrian traffic and shall be located and designed to meet all requirements of this section. For the purposes of this section, a portable sign is any sign or advertising device, which rests on the ground and is not designed to be permanently attached to a building or permanently anchored to the ground.
- B. Permit: No sign permit shall be required for portable signs permitted under this section.
- C. Size: The area of the portable sign shall not exceed six square feet. In measuring the area of the sign, the entire face of the sign (one side) shall be counted, irrespective of the area devoted to the sign message. Signs are permitted to have advertising on two faces of the sign. The maximum height of the sign shall be four feet.
- D. Removal: Portable signs permitted by this chapter shall be allowed on display only during regular business hours of the business and shall be removed during non-business hours.
- E. Placement:
1. Such signs may be located on private property or within the public right-of-way adjacent to the property (excluding any vehicular travel lane), provided the placement of the portable sign shall not interfere with vehicle access, pedestrian movement or wheelchair access to, through, and around the site.
 2. A minimum unobstructed access width of five feet shall be maintained along all sidewalks and building entrances accessible to the public. This measurement shall be made from the edge of the sidewalk or pedestrian passage to the nearest point of the sign.
 3. Such signs shall not be located in off-street parking areas, public roadways, a public landscape planter or landscape bed and may not be arranged so as to create sight distance conflicts at road intersections or driveways.
- F. Material and appearance:
1. Portable signs shall be constructed of materials that are of a permanent nature and not subject to fading or damage from weather. The use of paper or cloth is not permitted unless located within a glass (safety glass) or plastic enclosure.
 2. Portable signs shall be designed in an attractive manner to present an image of quality and creativity for downtown. Signs shall be maintained in a neat, orderly fashion so as not to constitute a public nuisance or hazard.
 3. Portable signs shall not have electrical moving parts. Decorative or ornamental features related to the business may be permitted, but shall be maintained in good condition.

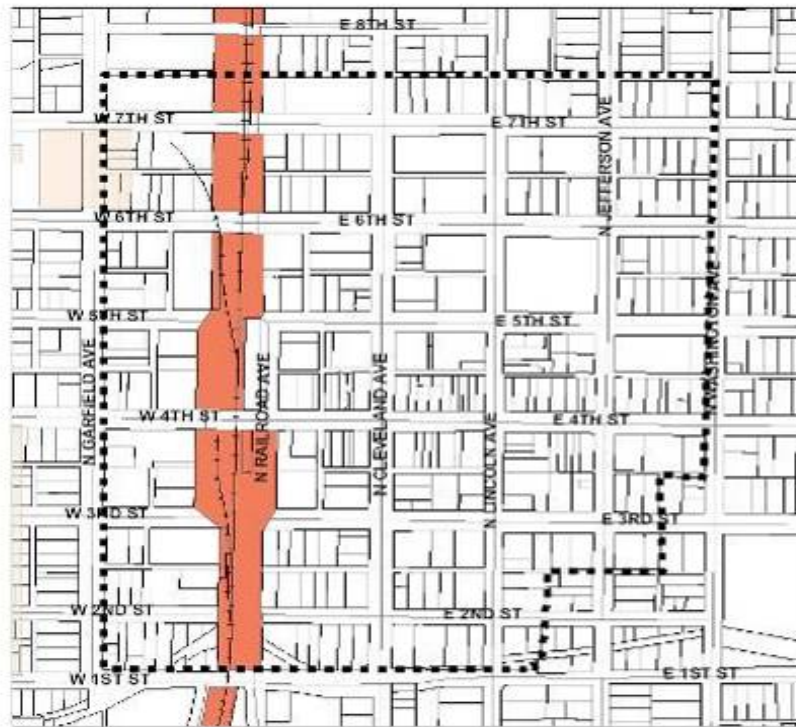


Appropriate Placement of Portable Sign



Desirable Materials and Design

Appendix A



Former Downtown Development Authority Boundary

18.50.120.1 I-25 Corridor.

These provisions shall apply to any premises in a nonresidential district which directly abuts the right-of-way of I-25. This section applies only to freestanding signs. In addition, all signs shall comply with Chapter 8 of the Site Development Performance Standards and Guidelines.

- A. Sign area: the maximum sign area of a freestanding sign shall be one hundred eighty square feet per face.
- B. Setback: none, however no part of the sign shall protrude off of the site.
- C. Number: one freestanding sign shall be allowed for properties with five hundred feet or less abutting I-25. Any property abutting I-25 for more than five hundred feet shall be allowed a maximum of two freestanding signs with the approval of a planned sign program.
- D. Sign Design: Signs shall be designed with a Horizontal Profile and shall relate to the architectural style of the main structure on the premise by integrating similar architectural features and materials. The sign face shall be oriented in a perpendicular fashion to the street frontage associated with the sign. Signs shall be of a high quality design which provides the following: readability of the message on the sign panel as described in the U.S. 34 Corridor Plan, sign face materials and base having warm-toned, natural materials such as brick, sandstone, textured and colored concrete and stucco and a design that is not top-heavy in appearance.
- E. Lighting: Signs shall be lit by directional, external light sources, internally illuminated letters and logos, or back-lighted raised letters and logos. The entire sign face shall not be internally illuminated.
- F. Landscaping shall be included around the base of the sign to minimize the visual impact of the base of the sign. A minimum of four square feet of landscaping shall be provided for every one

square foot of sign face. Only one face of the sign shall be counted. The portion of the sign on the ground shall not count toward landscaped square footage. To count as landscaping, seventy-five percent of the sign area landscaping shall be live plant cover within three years of normal plant growth. If the freestanding sign is integrated into a raised planter box, the landscape area may be reduced to two square feet of landscaping for every one square foot of sign area.

- G. Items of information: all freestanding signs established under this section shall be limited to ten items of information. An item of information is a word, an initial, a logo, an abbreviation, a number, a symbol, or a geometric shape.
- H. Property abutting I-25 for more than five hundred feet: a maximum of two freestanding signs shall be allowed for properties with more than five hundred feet abutting I-25 with the approval of a planned sign program and provided that a minimum separation of 175 feet exists between the freestanding signs.
- I. To encourage the consolidation of signs along I-25, property abutting I-25 for more than five hundred feet which is eligible for two freestanding signs, shall be granted the following increased sign area and sign height in exchange for installing only one freestanding sign along the I-25 frontage. If the increased sign allowances are utilized, the right to install two freestanding signs shall be deemed forfeited.
 - 1. Sign area: signs shall be allowed 11.3 square feet of sign area per foot of setback up to a maximum of three hundred forty square feet per face;
 - 2. Height: signs shall be allowed 1.3 feet of height for each foot of setback with a maximum height of 30 feet, as measured to the top of the sign face. The height can be extended by a maximum of 11 feet for architectural features only such as lanterns, columns or design features that integrate the sign into the context or theme of the development. The extended height for architectural features shall not count against the sign height ratio;
 - 3. Setback: for the purposes of determining the allowable sign area and height, the setback shall be measured from the I-25 right-of-way.
- J. Electronic Message Signs: within the I-25 Corridor, Electronic Message Signs shall be permitted only within a planned sign program for commercial centers on premises directly abutting I-25 for more than five hundred lineal feet, provided that the maximum sign area for the Electronic Message module shall not exceed sixty percent of the total sign face and the sign shall comply with the provisions in Section 18.50.100.A.4. Only one Electronic Message Sign shall be permitted per frontage within a premise.
- K. Prior to approval of a sign permit for signs within the I-25 Corridor, a letter of approval from the Colorado Department of Transportation shall be submitted to the city, if applicable.
- L. All other sign regulations: all other sign regulations in this chapter shall be applied within this I-25 corridor area.

18.50.130 Sign regulations for signs in the Highway 34 corridor.

All signs which require a permit and which are accessory to a building or use located within the Highway 34 Corridor, as it is described in the City of Loveland 1994 Comprehensive Master Plan, shall comply with the design guidelines for signs as contained in the Highway 34 Corridor Plan incorporated into the City of Loveland 1994 Comprehensive Master Plan. Any variance or deviation from these guidelines shall be allowed only if approved through the variance process, as set forth in Chapter 18.60 of this title. (Ord. 4185 § 1 (part), 1996)

18.50.135 Sign regulations for convenience stores.

In addition to all other provisions of this chapter, the following additional regulations shall be applicable to all signs located on a premise developed as a convenience store:

- A. All signs on convenience store sites must conform to the requirements and limitations of a planned sign program as described in Section 18.50.100.B. of this chapter.
- B. Freestanding signs: all freestanding signs or price reader boards shall not exceed eight feet in total height, shall have a monument style base, and shall not exceed thirty-two square feet in sign area per face.
- C. Canopy signs: signs located on the canopy may be located only on the canopy fascia and shall be limited to one corporate or business logo, of the principal use only, on each side of the canopy which is visible from a public or private street. Such logos shall have a vertical dimension no greater than seventy-five per cent of the vertical dimension of the canopy fascia and shall be no greater than twelve square feet in sign area per logo.
- D. Amortization: all legal non-conforming signs installed on premises developed as convenience store sites before October 9, 1989 shall be subject to the provisions of Section 18.50.150.C.

18.50.140 Maintenance.

All signs shall be maintained in good condition at all times. All signs shall be kept neatly finished and repaired, including all parts and supports. The building official or his or her authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

18.50.145 Abandoned/obsolete signs.

Any sign which is associated with a business which is no longer being conducted, or a product no longer being offered, from the premises on which the sign is located, shall have the sign face altered so that the message is no longer visible to the public within ninety days upon the cessation of such business or sale of such product.

18.50.150 Nonconforming signs.

- A. Termination of Legal Nonconforming Signs. A legal nonconforming sign shall either be amortized as prescribed in Section 18.50.150 C or comply with this chapter or be removed if any one of the following conditions occur:
 - 1. If a change of use occurs as defined in this title or the type of use terminates for ninety days or longer;
 - 2. The nonconforming sign becomes a hazard or a danger as defined in Section 3.02 of the Uniform Code for the Abatement of Dangerous Buildings and is not brought into compliance pursuant to Subsection B1b of this section;
 - 3. The use or building with which the nonconforming sign is associated expands either singularly or cumulatively, its building gross floor area, outdoor retail/display area, or outdoor storage area by at least twenty-five percent of the gross floor area at the time of this Code's adoption;
 - 4. The structural support of a nonconforming sign is altered to the extent that a building permit is required;
 - 5. The nonconforming sign structural support is modified or the original support materials are replaced to the extent that a building permit is required or a nonconforming sign module is substantially modified to the extent that a building permit is required;
 - 6. The nonconforming sign is relocated on the same or different premises and will still be in noncompliance with this chapter;
 - 7. The nonconforming sign is damaged or destroyed and the cost of reconstruction or repair is sixty percent or more of its depreciated value at the time it is damaged or destroyed;

8. The principal building or use with which the sign is associated is demolished or destroyed; and
 9. The non-conforming sign face is modified to an electronic message sign or an animated or flashing sign.
- B. Prohibited, illegal, nonconforming, abandoned or hazardous signs are declared nuisances and shall not be allowed within the city nor continued by variance. If any person fails to comply with the provisions of this chapter, in addition to the penalty provided therefor, a written order may be served upon the owner or agent in charge of such property, such order to be served personally or by mail, requiring the abatement of the nuisance within fifteen days, excluding weekends and official holidays, after mailing such notice. Such notice shall also advise the owner or agent of his or her right to appeal pursuant to Chapter 18.80. If the abatement has not occurred within the stated time and an appeal has not been filed pursuant to the provisions of Chapter 18.80, then the city may remove said sign, provided that the sign is either an off-premise sign, portable sign, free standing sign made of paper, balloons, pennants or banners, and charge the direct cost incurred by the city for removal of the sign, including five percent for inspection and other incidental costs in connection therewith. Such assessment shall be a perpetual lien upon the land on which the sign is located until the assessment is paid. In addition to any other means provided by law for collection, if any such assessment is not paid within thirty days after it is made and notice thereof is mailed, the same may be certified by the city clerk to the county treasurer and by him placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with ten percent penalty thereon to defray the cost of collection.
- C. Amortization: The right to keep, own, use, maintain or display a sign prohibited by the terms of this chapter as a nonconforming sign shall cease and terminate in accordance with the following schedule:
1. Any existing nonconforming sign for which a sign permit has been issued pursuant to a previously adopted code, excluding prohibited signs, which exceeds only the maximum sign area for each sign or maximum height limitations of this Code, as specified in Section 18.50.100, by twenty percent or less shall be considered a conforming sign and shall not need to be removed or altered. However, should said sign structure be replaced or renovated, excluding routine maintenance, said sign shall lose its conforming status and shall comply with all requirements of this Code.
 2. All signs illegally erected and all signs regulated under Section 18.50.060, except roof signs, shall be brought into conformity with this chapter on or before January 7, 1990. Signs erected more than three years before the effective date of the ordinance codified in this chapter are not presumed to be illegal merely because a sign permit is not on file with the building division. Other factors including the size, setback, height and applicable regulations on the date of erection or installation of the sign will be considered in determining whether or not a sign was illegal when erected or installed.
 3. All nonconforming signs which have been approved by the city through the variance or special review processes, or issued a sign permit which do not meet the requirements of this chapter, shall be considered legal nonconforming signs and shall comply with the provisions of the sign code as required in this section, and be subject to amortization.
 4. All existing nonconforming signs, including roof signs, but excluding those signs specified in Subsections 1 and 2 of this Subsection C, shall be brought into compliance with the requirements of this sign code on or before November 1, 1998.
 5. All nonconforming signs located on property annexed into the city after adoption of this Code shall comply with all the provisions of this chapter, including this section. The amortization period shall commence on the effective date of the annexation. The

amortization period for such signs shall be three years, unless otherwise determined by council as a condition of annexation.

6. Any existing sign which is brought into compliance with this chapter within four years from the date of adoption of this chapter, shall be entitled to a ten percent sign area bonus.
- D. Historic Signs: Notwithstanding any other provisions in this title, an historic sign may be kept, used, owned, maintained and displayed, subject to the following conditions:
 1. The sign and the use has been at its present location since 1956;
 2. The sign is not an off-premises sign;
 3. The sign is structurally safe or capable of being made structurally safe without substantially altering its historic character. All structural repairs and restoration of the sign to its original condition shall be made within sixty days of approval of the application for designation as an historic sign;
 4. The sign is representative of signs from the era in which it was constructed and provides evidence of the historic use of the building or premises; and
 5. A permit for such sign has been issued designating the sign as an historic sign.
- E. All signs which have been designated as historic signs shall be exempt from Subsection B. of Section 18.50.150 relating to abandoned signs so long as the sign continues to meet all the requirements of this section.

18.50.160 Approval procedures.

- A. Sign Permit Required.
 1. Except as provided in Section 18.50.050, it shall be unlawful to display, erect, relocate, or alter any sign without first filing with the city an application in writing and obtaining a sign permit.
 2. When a sign permit has been issued by the city, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of said permit without prior approval of the city. A written record of such approval shall be entered upon the original permit application and maintained in the building permit files of the building division.
- B. Application for Permit.
 1. The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his or her authorized agent, or a sign contractor licensed by the city. Such application shall be made in writing on forms furnished by the city and shall be signed by the applicant.
 2. The city shall, within five working days of the date of the application, either approve or deny the application or refer the application back to the applicant in any instance where insufficient information has been furnished.
- C. Plans, Specifications and Other Data. The application for a sign permit shall be accompanied by the following plans and other information:
 1. The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or erector;
 2. The location by street address of the proposed sign structure;
 3. Complete information as required upon the application forms provided by the city including but not limited to:
 - a. Elevation drawings of the proposed sign showing the dimensions of the sign and, where applicable, the dimensions of the wall surface of the building to which it is to be attached,
 - b. The dimensions of the sign's supporting members,
 - c. The maximum and minimum height of the sign,
 - d. The proposed location of the sign in relation to the face of a building, in front of which it is to be erected,

- e. A site plan showing the proposed location of the sign in relation to the boundaries of the lot upon which it is to be situated and other building improvements,
- f. Where the sign is to be attached to an existing building, a current photograph of the face of the building to which the sign is to be attached,
- g. A sign elevation indicating overall the letter/figure/design dimensions, colors, materials proposed, copy/wording/verbiage and illumination/lighting/beam method to be used.
- 4. Plans indicating the scope and structural detail of the work to be done, including details of all connections, guidelines, supports and footings, and materials to be used;
- 5. Application for, and required information for such application, and electrical permit for all electric signs if the person building the sign is to make the electrical connection; and
- 6. A statement of valuation.
- D. Interpretation.
 - 1. The provisions of this chapter are not intended to abrogate any easements, covenants, or other existing agreements which are more restrictive than the provisions of this chapter;
 - 2. Whenever the application of this chapter is uncertain due to ambiguity of its provisions, the question shall be referred to the planning commission for determination. The planning commission shall then authorize signing which best fulfills the intent of this chapter.
 - 3. If any section, subsection, sentence, clause, phrase or portion of this Code is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
- E. Fee Required. The application for a sign permit under this section shall be accompanied by a fee established by resolution of council to cover the cost of handling the application as prescribed by this chapter.

18.50.170 Enforcement, legal procedures and penalties.

It shall be unlawful for any person to erect, maintain, or allow upon any property over which they own, manage, lease or control, any sign which is not permitted pursuant to the provisions of this sign code. Enforcement, legal procedures and penalties shall be in accordance with Chapter 18.68 of this title. Additionally, unauthorized signs on public property may be confiscated by the city and held pending notification of the owner by the city. The owner may obtain said signs from the city manager upon payment of a confiscation and storage charge in an amount established by council. For the purposes of the enforcement of this chapter, the Building Official and his or her designee is authorized and duly appointed to issue summonses and complaints and penalty assessment notices for a violation of this chapter.

18.50.180 Variances.

Applications for a variance from the terms of this chapter shall be reviewed by the zoning board of adjustment according to Chapter 18.60 of this title.

18.50.190 Appeals.

A final decision of the current planning manager relative to the provisions of this chapter may be appealed to the planning commission in accordance with Chapter 18.80. The decision of the current planning manager shall be upheld unless the planning commission finds that the current planning manager's findings are clearly erroneous, arbitrary or capricious. Any appeal of the planning commission's final decision to council shall be made in accordance with Chapter 18.80 and council shall uphold the decision of the current planning manager unless council finds that the current planning manager's findings are clearly erroneous, arbitrary or capricious.

Chapter 18.52

SUPPLEMENTARY REGULATIONS

Sections:

18.52.010	Purpose.
18.52.015	Supplementary lot area and width regulations.
18.52.020	Supplementary yard regulations.
18.52.030	Supplementary building height regulations.
18.52.040	Commercial mineral deposit.
18.52.050	Collection, storage, and processing of recyclable materials.
18.52.060	Supplementary regulations for gas stations with or without convenience goods or other services.
18.52.070	Supplementary regulations for a shelter for victims of domestic violence.
18.52.080	Supplementary regulations for crematoriums.

18.52.010 Purpose.

This chapter specifies procedures and standards that apply to conditions and uses which may occur in more than one zoning district.

18.52.015 Supplementary lot area and width regulations.

- A. Where an individual lot was held in separate ownership from adjoining properties or was platted prior to the effective date of the ordinance codified herein, in a recorded subdivision approved by council, and has less area or less width than required in other chapters of this title, such a lot may be occupied according to the permitted uses provided for the district in which the lot is located, provided no lot area or lot width is reduced by more than one-third as specified in the regulations of the applicable zoning district unless a greater allowance is approved through a process specified in the Municipal Code.
- B. No part of an area or width for a lot for the purpose of complying with the provisions of this title shall be included as an area or width required for another lot.

18.52.020 Supplementary yard regulations.

- A. The purpose of a setback creating a yard is for the preservation of light and air to adjoining properties, fire protection, maintenance of property, preservation of open space and the retention of a visually cohesive pattern established by buildings and the spaces which separate them. To maximize the amount of open space on a lot and/or the beneficial use of the property, the current planning manager may approve a reduction of up to thirty-three percent of a required setback, so long as the current planning manager determines and makes written findings that:
 1. The alternative setback would be in harmony with the spirit of this title;
 2. The alternative setback would not limit the use or enjoyment of nearby property;
 3. A letter of non-objection to the alternative setback is submitted from all adjacent property owners; and
 4. A letter of non-objection to the alternative setback is submitted by other potentially impacted property owners, as determined by the current planning manager, who own property that falls wholly or partially within one hundred fifty feet of the subject property.
- B. The front yard in all residential zones may be reduced by five feet for garages where the vehicle access door does not face directly onto the street. This allowance shall not apply to properties within a planned unit development or special review that contain specific yard provisions.

- C. The following items may extend into required yards if determined to be incidental and harmless to adjacent properties by the current planning manager:
 - 1. Architectural features including cornices, eaves, bay windows, an exterior chase for a fireplace or other similar features;
 - 2. At grade uncovered decks and patios that are exempt from building permit requirements; and
 - 3. Fire escapes that extend into the required rear yards by no more than six feet.

18.52.030 Supplementary building height regulations.

- A. All dwellings shall be constructed with at least fifty percent of the roof surface higher than seven feet from grade.
- B. It is unlawful to construct, build or establish any building, trees, smokestack, chimney, flagpole, wire, tower or other structure or appurtenance thereto which may constitute a hazard or obstruction to the safe navigation, landing and take-off of aircraft at a publicly used airport.

18.52.040 Commercial mineral deposit.

For the purpose of this title, there are or may be established and designated on the zoning district map, commercial mineral deposits, as defined by C.R.S. 34-1-302(1). A master plan for the extraction of such deposits may be adopted by council. No real property shall be used, or permanent structures placed thereon, which shall permanently preclude the extraction of such mineral deposits by an extractor in violation of the provisions of C.R.S. 34-1-305.

18.52.050 Collection, storage and processing of recyclable materials.

For the purpose of encouraging the safe, healthy, attractive and convenient location and operation of recycling activities, the following supplementary regulations apply to all recycling activities, uses and locations, in addition to all other applicable regulations:

- A. No storage area, enclosure or container used for collection or storage of any recyclable material shall be visible from any public street bordering on the lot on which the collection and storage takes place, except mobile recycling collection units at attended collection facilities. The location on the lot for each such area, enclosure and container shall be subject to specific approval of the planning division, and shall be screened in compliance to Section 4.06 of the Site Development Performance Standards and Guidelines.
- B. No power-driven processing equipment is permitted as part of an attended or unattended recycling collection facility, except for reverse vending machines which do not exceed the allowable noise levels as set forth in Chapter 7.32.
- C. No more than four outside storage containers for recyclable materials are permitted at any attended or unattended recycling collection facility. All containers located outside of a building shall be limited to five cubic yards in storage capacity. No containers shall be placed or stored on the site except in the location designated for their use.
- D. All outside recycling collection facilities shall be kept free of litter and other unsightly or nuisance conditions. Outside storage containers shall be kept in good condition at all times, and collected materials shall not be permitted to overflow the design capacity of the container.
- E. No more than three reverse vending machines are permitted at the same outside recycling collection facility. The total square footage occupied by all such machines at an outside recycling facility shall not exceed one thousand five hundred square feet. No reverse vending machine shall be placed on a site in such a manner as to diminish or obstruct the required parking area for other uses or businesses on that site.
- F. All existing facilities for the collection, storage and processing of recyclable materials which do not comply with the provisions of this section are hereby declared to be public nuisances, and shall be abated.

18.52.060 Supplementary regulations for gas stations with or without convenience goods or other services

For the purpose of encouraging the safe, healthy, attractive and convenient location and development of gas stations with or without convenience goods or other services, the following supplementary regulations apply to all such facilities, in addition to all other applicable regulations:

- A. The maximum floor area ratio (FAR) for such sites shall be 0.15 for conventionally developed sites and 0.20 for sites developed using reverse mode design. The gross floor area shall include the area under all gas island canopies and other accessory structures. For the redevelopment of gas station sites which existed prior to January 1, 1990, the maximum floor area ratio shall be 0.20. The provisions of this Subsection A. shall not apply where existing gas station buildings, canopies and fuel pump islands are being reused.
- B. Such uses shall be located only along arterials or major collectors. Reverse mode design is encouraged at the intersection of two arterials. On a corner lot, provision of access to the site from adjacent sites or service roads is encouraged, rather than directly from the abutting streets. The provisions of this Subsection B. shall not apply where existing gas station buildings, canopies and fuel pump islands are being reused.
- C. All signs for such uses shall conform to the requirements and limitations set forth in Section 18.50.135.
- D. No canopies on such sites shall exceed 16.5 feet in total height. Canopies shall be architecturally integrated with the main building and all other accessory structures on the site through the use of the same or complementary materials, design motif and colors. Any lighting fixtures or sources of light that are a part of the underside of the canopy shall be recessed into the underside of the canopy so as not to protrude below the canopy ceiling surface more than two inches. The material and color used on the underside of the canopy shall not be highly reflective, with the intent of minimizing the amount and intensity of light which reaches beyond the site boundaries.
- E. All materials and colors used on both structural and architectural surfaces shall be subdued, earth tone colors, with the intent of promoting a harmonious appearance of the structures and the natural surroundings, as well as with appearance themes or guidelines of any surrounding development. Brick, stone and other high-quality masonry-type elements are strongly encouraged as a major component of the exterior of all structures. Any landscape walls shall also match the exterior materials and colors used on the principal structure. Bright accent colors, intended to express corporate or business logos, may be used only on a limited basis. These accent color areas shall not be internally illuminated, except for any portions that are permitted by the city as a sign.
- F. Landscaping materials and/or screening berms or walls shall be installed along all portions of the street frontage necessary, in order to screen from view the gasoline service islands and pumps and any other product dispensing areas from all abutting public streets and residentially zoned properties. No wooden fences or walls shall be used for these purposes. These requirements shall be additional to and made part of all other landscape requirements stipulated by the City of Loveland site development performance standards and guidelines, as they apply to such sites.
- G. All heating, air conditioning, refrigeration, ventilation or other mechanical equipment located on the exterior of any structure shall be screened from view on all sides which are visible as viewed from the abutting street frontage or any adjacent residential properties.
- H. The minimum distance between parallel fuel pump islands shall be twenty-five feet.
- I. The minimum distance from the outside edge of the fuel pump island and a required drive lane shall be no less than twelve feet. The minimum distance from the end of a fuel pump island and a required drive lane shall be no less than fifteen feet.

- J. In addition to the criteria set forth above, such sites that are located within the Downtown Development Authority boundary may be required to meet the guidelines for development within that area, as set forth in the “Design Guidelines for Downtown Loveland,” or such other document(s) as may be adopted by the Downtown Development Authority or the city.
- K. No sign shall be allowed on the premise which is visible beyond the boundaries of the premise which advertises, identifies, or directs the attention of the public to any specific food(s) items or products, not including beverages, which are offered for sale and/or consumption on the premise as part of the accessory sales.
- L. All food(s), food items, or food products, offered for sale on the premise shall be limited to those types of food that have been previously prepared off the premise and only requires, as part of the purchase of the product, removal of wrappers or packaging, heating, reheating, chilling, or assembly by the consumer in order to prepare it for human consumption.
- M. No fast food or drive-in restaurant shall be operated in conjunction with a convenience store on the same site and/or within the same building without first obtaining from the city approval of a special review, pursuant to Chapter 18.40 of this title, for such operation, either as an additional use or a combined use development.

18.52.070 Supplementary regulations for a shelter for victims of domestic violence.

The following supplementary regulations shall apply to all shelters for victims of domestic violence:

- A. The facility shall be limited to a maximum of eight bedrooms that could each be occupied by one adult or by families consisting of one adult and their dependents. One additional bedroom may be occupied by staff.
- B. The facility shall be subject to review and approval of a site development plan pursuant to Chapters 18.39, 18.46 and 18.47. In addition to the information required in the submittal checklist, the applicant shall include the following supplemental information:
 - 1. A description of the facility’s operation including staff levels, services provided to patrons, facility operational rules and maintenance responsibilities.
 - 2. An organizational outline of the governing body of the facility, including grantors and boards that provide oversight to the facility.
 - 3. A description of qualifications and experience of the facility operators.
 - 4. A map showing the location of any daycare facility licensed with the state, any school meeting all requirements of the compulsory education law of the state or licensed with the state as a preschool, any group care facility as defined in Section 18.04.183, and any other shelter for victims of domestic violence that lies within three hundred feet of the boundaries of the property in which the shelter is proposed.
 - 5. A description and location for all proposed lighting and security measures demonstrating compliance with CEPTED lighting, security, and construction provisions including the following:
 - a. All entryways, porches, walkways and sides of the residence shall be well lit;
 - b. All exterior entrance doors shall be constructed of solid core or steel and shall have security devices such as deadbolts, strike plates, door viewers and locks located away from any glass; and
 - c. All homes shall have an intrusion alarm and or exterior camera system.
 - 6. All landscaping shall be maintained in a manner to promote and increase security of the facility A landscape plan shall be submitted demonstrating compliance with the following standards:
 - a. All shrubs located near sidewalks, driveways, doors or gates shall be a low growing species obtaining a maximum height of not more than two feet;

- b. All trees placed near the home shall be a canopy tree species and shall be trimmed so that lower branches are at least six feet off the ground; and
 - c. Decorative stone or rock shall be used as ground cover near home so that it makes noise when someone walks on it.
- 7. The City may require other material as necessary to evaluate the application for compliance with City standards.
- C. In approving a site development plan, the current planning division and the Loveland Police Department shall determine whether the location of the shelter will be compatible with the uses listed in Subsection B.1. and that appropriate security and landscape measures will be in place, in compliance with the standards contained in Subsection B.5. and B.6. As part of the determination, the city may impose restrictions and conditions, as deemed necessary, to insure compliance with the standards contained in Section B., above.
- D. All site development plan applications for shelters for domestic violence, including building permit applications, inspection records and any related documents shall be kept confidential and shall not be inspected or released to any person or entity pursuant to an open records request, except upon written permission by the director of the shelter for domestic violence.

18.52.080 Supplementary regulations for crematoriums

The following supplementary regulations shall apply to all crematoriums constructed after September 1, 2009. Crematoriums existing prior to September 1, 2009 shall comply with Sections 18.52.080B., C., and where applicable, F.

- A. Prior to the issuance of a certificate of occupancy for any crematorium, the operator shall provide documentation to the city that all applicable federal, state and local permits have been obtained and provide to the city all of the equipment manufacturers' specifications for construction, installation, operation, and maintenance.
- B. Crematoriums shall be constructed, installed, operated and maintained in accordance with all manufacturers' specifications and all applicable federal, state and local permits, as amended. The city shall have the right to enter and inspect the operations of the crematoriums to determine compliance with this provision in accordance with Chapter 1.08.
- C. The addition or expansion of an incinerator within an existing crematorium prior to (insert the effective date of the ordinance) shall be subject to the provision in Subsection F., below, and the special review procedures set forth in Chapter 18.40, except for properties zoned Industrial located more than five hundred feet, as measured by a straight line, from any property boundary zoned R1, R1e, R2, R3, R3e, or located more than five hundred feet from any residential property within a planned unit development.
- D. Each incinerator within a crematorium shall have a modern automated control panel and a dedicated natural gas meter.
- E. The height of the exhaust stack for each crematorium unit shall be a minimum of two feet above the roofline or other nearby obstruction to minimized downdrafts of the exhaust.
- F. No incinerator within a crematorium shall be located less than three feet, as measured by a straight line, from any property boundary zoned R1, R1e, R2, R3, R3e, or less than three feet from any residential property within a planned unit development.

Chapter 18.53

COMMERCIAL AND INDUSTRIAL ARCHITECTURAL STANDARDS

Sections:

- 18.53.010 Purpose and general application.**
- 18.53.020 Compliance.**
- 18.53.030 Commercial (non-industrial) architectural standards.**
- 18.53.040 Industrial architectural standards.**

18.53.010 Purpose and general application.

- A. Purpose and intent. The following standards are intended to enhance the appearance of buildings and promote a high quality of design in order to protect the public health, safety and welfare. The intent of these standards is to: (i) encourage greater design compatibility with surrounding areas and establish a precedent for high quality design in areas with no established character; (ii) achieve greater architectural variation and interest through standards for the design of roofs, exterior walls and the use of exterior finish materials; (iii.) encourage greater architectural cohesiveness and compatibility within a new development of multiple buildings; and (iv.) reduce the negative visual impact of features and site improvements such as mechanical equipment. These standards are intended to be applied together with other development standards of Title 18, including the Site Development Performance Standards and Guidelines.
- B. General application.
 - 1. New construction. These standards shall apply to new construction of buildings and structures as specified in the following sections.
 - 2. Improvements to existing structures and development sites.
 - a. These standards shall apply to existing buildings only when a proposed building expansion exceeds twenty-five percent of the existing floor area measured on a cumulative basis starting from the date of the adoption of this chapter. For example, if an owner increases the gross floor area by five percent each year, for five years beginning on the date of adoption of this chapter, the provisions of this chapter shall apply when the gross floor area has increased by twenty-five percent in the fifth year.
 - b. It is intended that a building expansion subject to these standards be reasonably integrated with the existing structure or site condition consistent with these standards.
 - c. These standards shall not be construed to necessitate improvements to existing buildings or site conditions beyond those necessary to integrate the proposed improvement with existing conditions in a manner consistent with these standards.
 - 3. Development or permit applications. These standards shall not apply to any complete development, zoning or building permit application submitted or approved prior to the adoption of these standards.
 - 4. Exemption for historic buildings. These standards shall not apply to designated historic structures altered or restored in compliance with a building alteration certificate authorized pursuant to Chapter 15.56.
 - 5.

18.53.020 Compliance.

- A. Type 1 standards. Compliance with the type 1 standards set forth in this chapter is mandatory, unless a variance is granted pursuant to Chapter 18.60.
- B. Type 2 standards.
 - 1. Alternative compliance. Compliance with the type 2 standards set forth in this chapter is mandatory, unless the current planning manager grants alternative compliance in accordance

with the following provisions. The current planning manager may allow application of an alternative standard, different than a type 2 standard, provided the current planning manager determines that:

- a. The applicant has demonstrated that either:
 - i. Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or
 - ii. The alternative standard achieves the intent of the subject type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.
2. Statement of findings. Whenever the current planning manager grants alternative compliance, the current planning manager shall formulate a written statement of findings based on the above criteria for such action. Such statement shall be filed in the development application file.
3. Appeals. Final decisions by the current planning manager with respect to such alternative compliance may be appealed to the planning commission in accordance with Chapter 18.80.

18.53.30 Commercial (non-industrial) architectural standards.

A. Application.

1. The following standards apply to retail, office, institutional and other commercial buildings located in business zoned or designated areas, including but not limited to the B district. In the case of business or commercially designated areas within a planned development district, or such uses subject to special review (Chapter 18.40), standards negotiated as part of a planned development district, or as may be required by the findings of the special review, may be different or more stringent than those set forth in this section. These standards shall not apply to buildings located in industrially zoned or designated areas, including but not limited to the I district (see Section 18.53.040 for industrial standards), except as provided herein. These standards shall apply to buildings in I districts that are located on sites adjacent to a major or minor arterial road (as defined in Subsection 18.53.040B.), when fifty percent or more of the building gross floor area or use is devoted to a non-industrial use. Non-industrial uses include uses such as office, retail goods or services, restaurants, or institutional use. In calculating the use devoted to such non-industrial use, any outdoor area devoted to the display of goods for sale shall be included in the calculation of area devoted to non-industrial use. For such buildings in I districts, exterior portions of the building enclosing such non-industrial space shall comply with the commercial architectural standards in this section. Exterior portions of such buildings enclosing space devoted primarily to industrial uses, such as manufacturing or warehouse space, are exempt from application of commercial architectural standards in this section.
2. It is intended that these standards apply to the primary façade of the building and that all sides of building, where visible from public rights-of-way and private roads or service drives or adjacent residential neighborhoods, shall include design characteristics and materials consistent with those of the primary façade, except as provided in Subsection B below. Also, standards specified in Section 18.53.040, shall be limited to the façade and walls as specified in that section.
3. These standards shall not apply to buildings and sites located within the downtown BE district as illustrated by Figure 18.24.050(3).

- B. Exceptions. The director may waive the application of the standards set forth in this chapter in cases where the visibility of side or rear walls of the building is substantially diminished by landscaping, or by a decorative screening wall or earthen berm combined with landscaping,

located between the building wall and any such right-of-way or adjacent property. A waiver may also be considered in cases where the distance of the building from the right-of-way or adjacent property, and/or intervening structures or other landscape features, diminish the visibility of the proposed structure in a manner consistent with the intent of this paragraph. Landscape screening shall be designed to be at least sixty percent opaque to a height of six feet upon installation and a minimum of eighty percent opaque to a height of six feet within five years of planting (see examples Figures 18.53.030-1 and 18.53.030-2). Such landscaping shall consist of primarily evergreen plant material to provide year-round screening. The required landscaping shall be maintained in healthy condition by the current owner. In the event any required landscaping material dies or is destroyed, it shall be replaced by the owner within six months. Replacement material shall conform to the original intent of the landscape plan.

C. Design compatibility.

1. Type 2 standards:

- a. Building design shall contribute to the special or unique characteristics of an area and/or development through the use of predominant building massing and scale, building materials, architectural elements and color palette.
- b. Design compatibility shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development.
- c. Where there is no established or consistent neighborhood or area character or unifying theme, or where it is not desirable to continue the existing character because it does not reflect a design theme consistent with the architectural standards as described in this chapter, the proposed development shall be designed to establish an attractive image and set a standard of quality for future developments and buildings within the area. Greater attention to design with respect to design compatibility standards in this Subsection C shall be required in areas of high visibility, such as community entryways and arterial and major collector roadways.

D. Building design elements.

1. Type 2 standards: All buildings shall be designed and maintained using the following building elements, with a minimum of one item each selected from four of the five groups below:

- a. Group 1 - exterior wall articulation.
 - i. Openings or elements simulating openings that occupy at least twenty percent of the wall surface area (excluding overhead or dock doors) (Figure 18.53.030-3); or
 - ii. Building bays created by columns, ribs, pilasters or piers or an equivalent element that divides a wall into smaller proportions or segments with elements being at least one foot in width, a minimum depth of eight inches, and spaced at intervals of no more than twenty five percent of the exterior building walls (Figure 18.53.030-4) For buildings over twenty thousand square feet in floor area, such elements shall be at least eighteen inches in width, with a minimum depth of twelve inches, and spaced at intervals of no more than twenty percent of the exterior building walls; or
 - iii. A recognizable base treatment of the wall consisting of thicker walls, ledges or sills using integrally textured and colored materials such as stone, masonry, or a decorative concrete; or
 - iv. Some other architectural feature that breaks up the exterior horizontal and vertical mass of the wall in a manner equivalent to (i), (ii) or (iii) above.
- b. Group 2 - roof articulation.

- i. Changes in roof lines, including the use of stepped cornice parapets, a combination of flat and sloped roofs, or pitched roofs with at least two roof line elevation changes (Figure 18.53.030-5 and 6); or
 - ii. Some other architectural feature or treatment which breaks up the exterior horizontal and vertical mass of the roof in a manner equivalent to (i) above.
- c. Group 3 - building openings, walkways and entrances.
 - i. Canopies or awnings over at least thirty percent of the openings of the building (Figure 18.53.030-7); or
 - ii. Covered walkways, porticos and/or arcades covering at least thirty percent of the horizontal length of the front façade (Figure 18.53.030-8); or
 - iii. Raised cornice parapets over entries; or
 - iv. Some other architectural feature or treatment which adds definition to the building openings, walkways or entrances in a manner equivalent to (i), (ii), or (iii) above.
- d. Group 4 - building materials. (The area of windows and doors, including overhead doors, shall be excluded from the wall area calculation for the following standards.)
 - i. At least two kinds of materials distinctively different in texture or masonry pattern, at least one of which is decorative block, brick or stone, with each of the required materials covering at least twenty-five percent of the exterior walls of the building (Figure 18.53.030-9); or
 - ii. Brick or stone (including synthetic stone) covering at least fifty percent of the exterior walls of the building.
- e. Group 5 - other architectural definition.
 - i. Overhanging eaves extending at least twenty four inches past the supporting walls, or with flat roofs, cornice parapets or capstone finish (Figure 18.53.030-10); or
 - ii. Ornamental lighting fixtures (excluding neon) for all exterior building lighting (Figure 18.53.030-11); or

A feature that adds architectural definition to the building, in a manner equivalent to (i) or (ii) above.

- E. Articulation of walls. Type 2 standard: Facades, and any wall of the building facing any road or public or private service drive, greater than one hundred feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least four percent of the length of the façade, extending at least twenty percent of the length of the facade. No uninterrupted length of any facade shall exceed one hundred horizontal feet (Figure 18.53.030-12)
- F. Delivery/loading doors and docks. Type 2 standard: No delivery, loading, dock or trash removal door or facility shall be located on the main street facing façade of the building. Any such door or facility located on the side or rear wall of the building shall be screened in accordance with the Site Development Performance Standards and Guidelines, as amended. For sites that have road frontage on multiple sides, these facilities shall be located in the least obtrusive manner, preferably on a non-road facing side of the building, or the road frontage that has the least public visibility.
- G. Rooftop mechanical units. Type 2 standard: Rooftop mechanical units and other miscellaneous rooftop equipment shall be substantially screened from view from public rights-of-way and other public places. Screening materials shall be of the same or comparable material, texture and color as the materials used on the building. Roof-mounted equipment screening shall be constructed as an encompassing monolithic unit, rather than as several individual screens (i.e., multiple equipment screens, or "hats," surrounding individual elements shall not be permitted). The height of the screening element shall equal or exceed the height of the structure's tallest piece of installed equipment (Figure 18.53.030-13).

- H. Cart storage and vending machines. Type 2 standard: Cart storage areas, vending machines, and video and book return containers shall be placed inside the principal building, placed in an accessory structure designed to complement the principal building, or screened with walls and landscaping.
- I. Multi-building developments. Type 1 standard: Developments with multiple buildings shall include predominant characteristics in each building so that the buildings within the development appear to be part of a cohesive, planned area, yet are not monotonous in design. Predominant characteristics may include use of the same or similar architectural style, materials and colors.
- J. Building entrances. Type 1 standard: Primary public entrances shall be clearly defined and recessed and projected or framed by elements such as awnings, arcades, porticos or other architectural features.
- K. Building colors.
 - 1. Type 1 standard: Colors shall be used to blend buildings into an area and to unify elements of a development. Color should be drawn from the surrounding area and, if in a new development area, shall be selected to establish an attractive image and set a standard of quality for future developments and buildings within the area. Monotonous or monochromatic color palettes are strongly discouraged. Accent colors used to call attention to a particular feature or portion of a building, or to form a particular pattern, shall be compatible with predominant building base colors and may be incorporated using such elements as shutters, window mullions, building trim and awnings.
 - 2. Type 2 standard: Accent colors shall cover no more than five percent of a building facade.
- L. Franchise architecture. Type 1 standard: Prototypical or franchise architectural designs may be required to be modified to meet these architectural standards. Changes to prototypical franchise styles to meet these standards may include, but not be limited to, modifications to roofs, windows, doors, building mass, materials, colors, placement of architectural features and details, etc. Care should be taken to ensure that such modifications comply with Subsection C. Design Compatibility. Franchise architectural styles found to meet these standards will not require any modification.
- M. Illumination. Type 2 standard: Illumination highlighting the entire façade of a building, or a significant portion of the building, or back lighted translucent awnings intended to function as signage, shall not be permitted as part of a building design. This standard is not intended to preclude the use of lighting (including neon lighting) to accent limited portions of the building façade.
- N. Metal siding. Metal siding may be used as an exterior finish material as long as the amount used does not exceed twenty-five percent of the area of any single wall, exclusive of the roof, and provided it matches or complements the building color and/or material scheme. Further, such metal siding shall be a “standing seam” type or equivalent quality, not a “corrugated” type. Architectural metals, such as bronze, brass, copper and wrought iron, may be used and may exceed the twenty-five percent area limit.

Figure 18.53.030-1

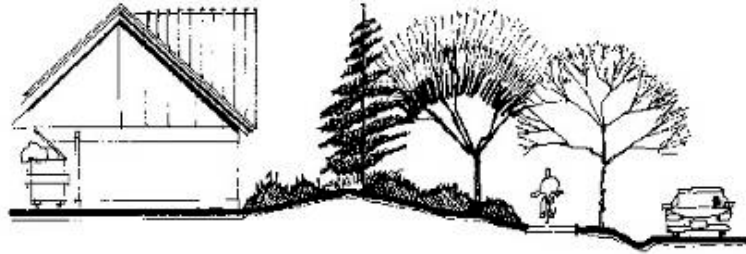


Figure 18.53.030-2

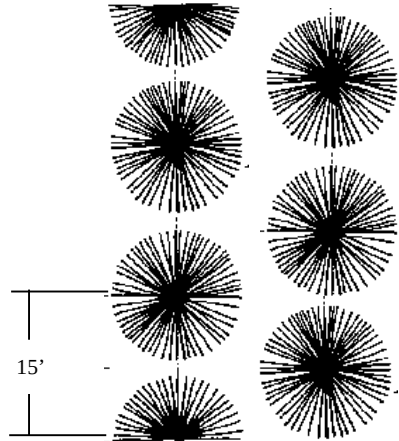


Figure 18.53.030-4

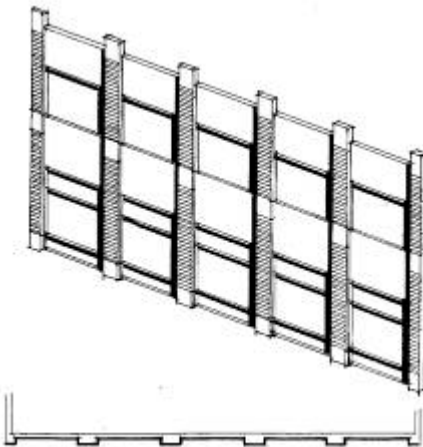


Figure 18.53.030-3

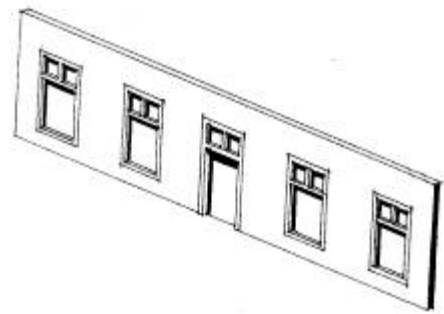


Figure 18.53.030-5



Figure 18.53.030-6

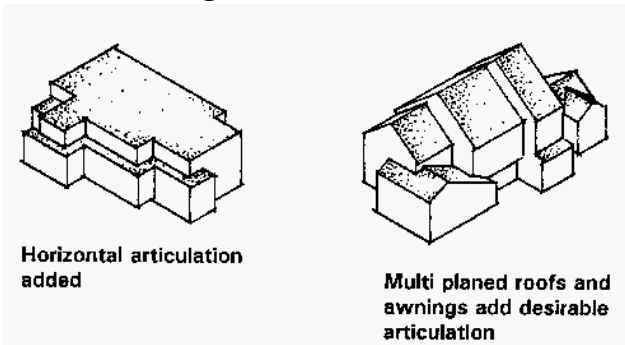


Figure 18.53.030-7

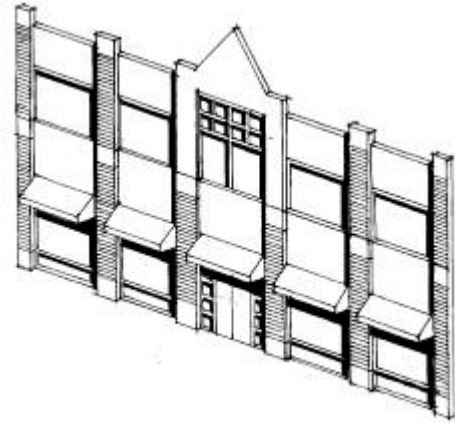


Figure 18.53.030-8

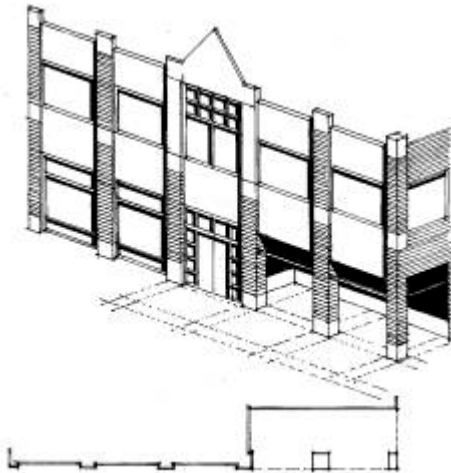


Figure 18.53.030-9

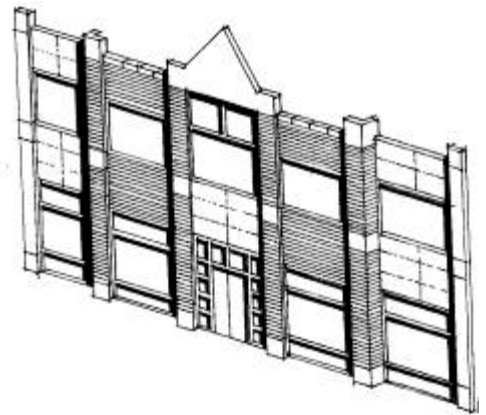


Figure 18.53.030-10

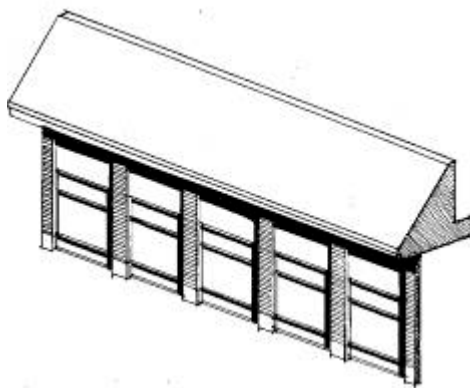


Figure 18.53.030-11

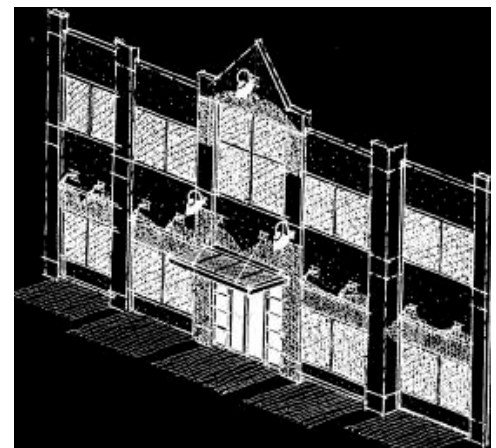


Figure 18.53.030-12

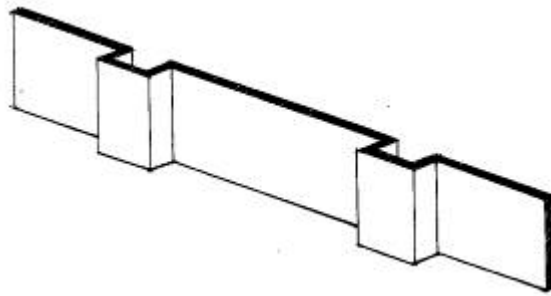
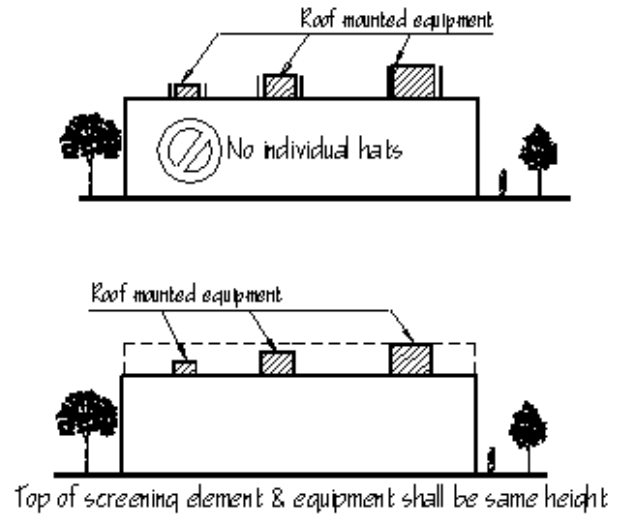


Figure 18.53.030-13



18.53.040 Industrial architectural standards.

- A. Purpose and intent. These standards are intended to apply to industrial buildings on sites adjacent to major roads (as defined in Subsection B. below) because of the visibility of such development and its impact on the image and character of the community. Industrial development that is adjacent to collector or local roads is not subject to these standards.
- B. Application. Standards in this section apply to industrial buildings located in the I district and areas within PUD districts designated for industrial use that are located on sites adjacent to a major or minor arterial road, as defined by the 2020 Transportation Plan, or an interstate highway. (For buildings where fifty percent or more of the gross floor area or use is devoted to a non-industrial use, see Section 18.53.030A.)
 1. Sites adjacent to public or private service roads, where there is no developed or developable private land between the service road and the arterial road, shall be considered adjacent to such arterial roads or interstate highways and shall be subject to these standards. This shall include sites on service roads separated from the arterial or interstate road by public or private commuter facilities other public facilities within the right-of-way.
 2. In the case of industrial designated areas within a PUD district, or industrial uses subject to special review (Chapter 18.40), standards negotiated as part of a PUD district, or as may be required by the findings of the special review, may be different or more stringent than those set forth in this section.
 3. Subsection 18.53.010.B, which addresses how standards apply to new construction and existing buildings, and Section 18.53.020, regarding the application of type 1 and type 2 standards, also shall apply to standards in this section.
- C. Arterial/interstate sites.
 1. Type 2 standard: For sites adjacent to a major or minor arterial road or Interstate highway, or service road as defined in Subsection B. of this section, metal shall not comprise more than twenty-five percent of the exterior building finish material on walls (roof excluded) facing such a road. Where walls on sites with frontage on such roads do not face such roads, but are visible from such roads, such as side walls, this requirement shall extend to one third of the depth of the wall measured from the wall facing such road. Figure 18.53.040-1 illustrates this standard.
 - a. This requirement shall not apply to sites adjacent to local or collector roads or other types

of rights-of-way such as, but not limited to, public or private trails, railroads, or utility rights-of-way or easements.

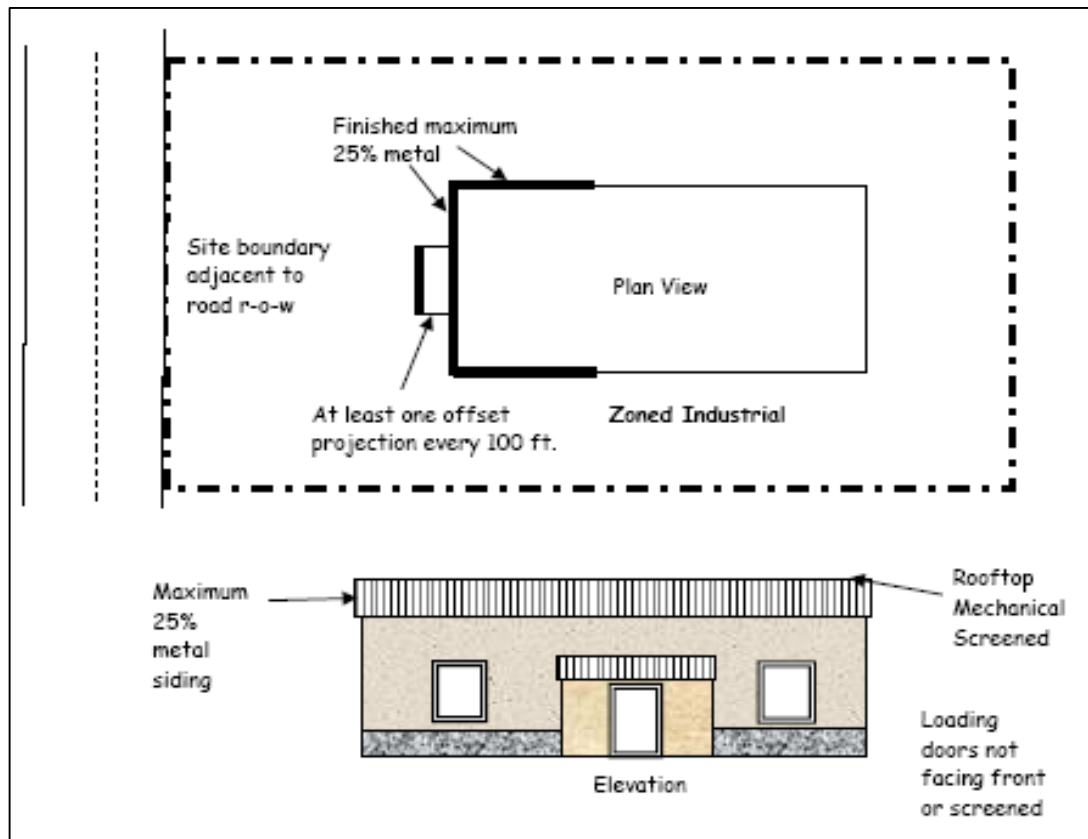


Figure 18.53.040-1

- b. Metal siding includes any form of metal exterior finish material, including corrugated or standing seam metal siding. The director may permit metals such as bronze, brass, copper and wrought iron, in excess of the twenty-five percent limitation if a determination is made that such materials are equal or superior to the primary building materials.
2. Other Standards: Industrial buildings on sites adjacent to a major or minor arterial road or Interstate highway, or service road as defined in Subsection B. of this section, shall also comply with standards set forth in Section 18.53.030C., E., F., G., K., and M.
- D. Non-arterial/interstate sites. For industrial sites and buildings that are not adjacent to a major or minor arterial road or Interstate highway, or service road as defined in Subsection B. of this section, there shall be no limit on the use of metal exterior siding and other requirements in Subsection C. of this section shall not apply.

Chapter 18.54

BUILDING HEIGHT REGULATIONS

Sections:

- 18.54.010 Purpose and applicability.**
- 18.54.020 Height limitations – Conformance required.**
- 18.54.030 More restrictive limitations shall supersede.**
- 18.54.040 Height limitations within fifty feet of residential uses.**
- 18.54.050 Request for exception.**
- 18.54.060 Appeal to council.**
- 18.54.070 Amendments – PUD.**

18.54.010 Purpose and applicability.

This chapter is enacted pursuant to and in accordance with Section 18.04 and applies to buildings and structures for which a building permit shall have been obtained after the effective date of this Ordinance.

18.54.020 Height limitations – Conformance required.

It is unlawful for the owner, developer or occupant of any building or structure to erect, move, alter or extend any building or structure, except in conformity with the height limitations set forth in Schedule A of this chapter. Building or structure height shall be measured as defined in Section 18.04.

Use	Maximum height of building or structure	Maximum height of accessory building or structure
One, two, three and four family dwelling units	35	25
Multiple family dwellings more than four dwelling units	40	25
Mobile homes	25	15
I zoning district east of County Road 9	50	50
Other	40	40
E-Employment Center District	As provided in Chapter 18.30 E District Schedule of Flexible Standards	50
MAC-Mixed-use Activity Center District	As provided in Chapter 18.29 MAC District Schedule of Flexible Standards	50
BE – Established Business District	As provided in Chapter 18.24 BE – Established Business Zoning District	As provided in Chapter 18.24 BE – Established Business Zoning District

18.54.030 More restrictive limitations shall supersede.

Where any height limitations set forth in this chapter conflicts with any height limitations set forth in the airport overlay zone, or any other overlay zone, the more restrictive limitation shall apply.

18.54.040 Height limitations within fifty feet of residential uses.

Any nonresidential use or multi-family use located closer than fifty feet from the property boundary of a residential use, excluding multi-family dwelling units, shall be limited to the maximum height allowed for a single family residential use. This standard shall not apply to nonresidential or multi-family uses located within the BE district. See Chapter 18.24 for height limitations for nonresidential and multi-family uses located next to residential uses, excluding multi-family dwelling units.

18.54.050 Request for exception.

The owner of the proposed building or structure may request an exception from the height limitations imposed by this chapter. A request for an exception shall be made to the planning commission. The planning commission shall hold a public hearing on such request, which hearing shall be noticed in accordance with Section 16.16.070.

Before granting any request, the planning commission shall find that:

- A. The requested exception allows adequate light and air to the adjacent neighborhood; and
- B. The requested exception is compatible with the character of the surrounding neighborhood; and
- C. The requested exception will not be injurious to the adjacent neighborhood or otherwise detrimental to the public health, safety and welfare; and
- D. The requested exception is consistent with the intent of the zoning district and the entire zoning ordinance.

18.54.060 Appeal to council.

Any party-in-interest, as defined in Section 18.80.020, may appeal the final decision of the planning commission to council. Council shall hold a public hearing on such appeal, which appeal shall be conducted in accordance with Chapter 18.80. Using the criteria set forth in Section 18.54.050, council may affirm, modify or reverse the planning commission's final decision.

18.54.070 Amendments – PUD.

Council may amend this chapter through approving a planned unit development submitted in accordance with Chapter 18.41.

Chapter 18.55

PERSONAL WIRELESS SERVICE FACILITIES

Sections:

18.55.010	Purpose and interpretation.
18.55.020	Definitions.
18.55.030	Co-location in general.
18.55.040	Co-location on existing structures.
18.55.050	Co-location on new towers.
18.55.060	Application requirements.
18.55.070	Design criteria.
18.55.080	Antenna design criteria.
18.55.090	Landscaping and screening.
18.55.100	Maintenance and inspection requirements.
18.55.110	Non-use/abandonment.
18.55.120	Third party review.
18.55.130	Applicability.

18.55.010 Purpose and interpretation.

- A. The purpose of this chapter is to provide specific regulations for the placement, construction and modification of personal wireless service facilities. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this chapter be applied in such a manner as to discriminate unreasonably between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this chapter are inconsistent or in conflict with any other provision of the City Code or any ordinance of the city, the provisions of this chapter shall be deemed to control.
- B. The goals of this chapter are to: (i) encourage the location of towers in non-residential areas and to minimize the total number of towers throughout the city, (ii) encourage strongly the joint use of new and existing tower sites, (iii) encourage users of towers and antennas to locate them, to the extent possible, in areas least likely to negatively affect residential property or other uses, (iv) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and (v) enhance the ability of the providers of personal wireless services to provide such services throughout the city quickly, effectively, and efficiently.

18.55.020 Definitions.

- A. As used in this chapter, all words and phrases shall be interpreted and defined in accordance with Section 18.04.040 and Subsection B. of this section. In the event of a conflict, Subsection B. of this section shall control.
- B. As used in this chapter:

“Antenna” shall mean any exterior apparatus or apparatuses designed for telephonic, radio, data, Internet or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower or building for the purpose of providing personal wireless services including, for example, “cellular,” “enhanced specialized mobile radio” and “personal communications services” telecommunications services, and its attendant base station. For purposes of this chapter, the term “antenna” shall not include an antenna used by an amateur radio operator or “ham”

operator, nor an exterior antenna or satellite dish used for the private or non-commercial reception of television or radio signals.

“Antenna Height” shall mean the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

“Antenna Support Structure” shall mean any pole, telescoping mast, tower, tripod or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

“Cell Site” shall mean a tract or parcel of land that contains the personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

“FAA” shall mean the Federal Aviation Administration.

“FCC” shall mean the Federal Communications Commission.

“Personal Wireless Services” and “Personal Wireless Service Facilities,” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services and the facilities for the provision of such services, as defined in Title 47, United States Code, Section 332, as amended from time to time.

“Tower” shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

18.55.030 Co-location in general.

- A. To minimize adverse visual impacts associated with the proliferation of towers, the city encourages co-location of antennas by more than one carrier on existing towers or structures.
- B. An existing tower may be modified or reconstructed to accommodate the co-location of an additional antenna. Modification of an existing tower to accommodate additional antennas shall be permitted in all zone districts, subject to the requirements of the zone district and the following criteria:
 - 1. An existing tower may be modified or rebuilt to a taller height, not to exceed twenty feet over the tower's existing height, to accommodate the co-location of an additional antenna. The tower as modified shall comply with the other provisions of this chapter.
 - 2. A tower which is being modified to accommodate the co-location of an additional antenna may be moved to a different location on the same property within 50 feet of its existing location so long as it remains within the same zone district. After the tower is rebuilt to accommodate co-location, only one tower shall remain on the property.
 - 3. The tower, as modified shall comply with the provisions of this chapter in all respects.
 - 4. The applicant for modification of a tower and co-location of an antenna shall follow the approval process as set forth in this title for the zone district in which the tower is located.
- C. No personal wireless service facility owner, operator, lessee, or any officer or employee thereof, shall act to exclude any personal wireless services provider from using the same facility, building, structure or location. Personal wireless service facility owners or lessees or officers or employees thereof shall cooperate in good faith to achieve co-location of personal wireless service facilities and equipment with other personal wireless services providers. Upon request by the city, the owner or operator shall provide evidence establishing why co-location is not feasible. The city shall not attempt to affect fee negotiations between private parties concerning co-location.

- D. If a personal wireless services provider attempts to co-locate a facility on an existing or approved facility or location and the parties cannot reach agreement concerning the co-location, the city may require a third party technical study at the expense of either or both parties to resolve the dispute.

18.55.040 Co-location on existing structures.

The special review requirements for an antenna may be waived in the BE, B and I districts if the applicant proposes to locate the antenna on an existing structure such as a water tower, building, steeple or other suitable structure or pole. The applicant shall submit detailed plans to the current planning division for an administrative review to determine if the special use permit process and public hearing can be waived. Suitability of the existing structure for the co-location of an antenna shall be determined based upon the structure's capacity to accommodate the antenna and the antenna's architectural compatibility with the structure. No building permit shall be issued unless approval is granted through the administrative review, or the applicant completes the full special review process.

18.55.050 Co-location on new towers.

- A. In order to reduce the number of towers needed in the city in the future, every new tower shall be designed to accommodate antenna for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.
- B. Unless the current planning division determines that co-location is not feasible, the site plan for every new tower shall delineate an area near the base of the tower to be used for the placement of additional equipment or buildings for other users. The site plan for towers in excess of 100 feet shall propose space for two or more other comparable tower users, while the site plan for towers under one hundred feet shall propose space for one other comparable tower user.
- C. The city may deny an application to construct a new tower if the applicant has not demonstrated a good faith effort to co-locate the antenna on an existing structure or tower.

18.55.060 Application requirements.

Applicants for approval of personal wireless service facilities shall submit the following information with their application. The current planning division may waive certain submittal requirements if the information requested is deemed by the current planning manager not to be necessary under the circumstances of a particular application.

- A. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures. The site plan shall indicate all cell sites, showing the antenna, antenna support structure, building, fencing, buffering, and all other items required in this chapter.
- B. A current map and aerial as provided by the county assessor's office showing the location of the proposed tower;
- C. Legal description of the parcel upon which the personal wireless service facilities are to be located;
- D. A statement on the site plan indicating the distance between the proposed tower and the nearest residential dwelling unit, platted residentially zoned properties, and unplatted residentially zoned properties. If the proposed tower is to be located within 300 feet of any residentially zoned property, then the distances, locations and identifications of said residential properties shall be shown on an updated city map;
- E. A landscape plan showing specific landscape materials;
- F. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;

- G. Evidence demonstrating compliance with all provisions of this chapter and the zone district in which the personal wireless service facilities are to be located;
- H. A notarized letter signed by the applicant stating the tower will comply with all EIA Standards and all applicable federal and state laws and regulations (including specifically FAA and FCC regulations);
- I. A statement by the applicant as to whether construction of any new tower will accommodate co-location of additional antenna(s) for future users;
- J. Certification by a qualified engineer that the antenna usage will not interfere with other adjacent or neighboring or city-wide transmissions or reception functions;
- K. Documentation evidencing that the applicant is licensed by the FCC if required to be licensed under FCC regulations; or in the event the applicant is not the telecommunications service provider, proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;
- L. Information demonstrating how the proposed site fits into the applicant's overall network within the city;
- M. If the personal wireless service facilities or equipment are to be located westerly of the 5200 foot elevation, the applicant shall provide computerized, three dimensional, visual simulation of the facility and equipment and other appropriate graphics to demonstrate the visual impact on the view of the city's foothills and hogbacks as viewed from major transportation corridors or public open space. No personal wireless service facilities or equipment shall extend above the natural, horizontal rock line of the city's foothills and hogbacks;
- N. Documentation evidencing the applicant's FCC authorization to provide personal wireless services or place personal wireless service facilities within the city or geographic area which includes the city; and
- O. The application for any tower shall be accompanied by a letter of credit, in an amount to be determined by the city, which may be drawn upon by the city as necessary to cover the costs of removal of the tower.

18.55.070 Design criteria.

Every personal wireless service facility shall comply with the following design criteria:

- A. Architectural compatibility: Personal wireless service facilities shall be architecturally compatible with the surrounding buildings and land uses in the zone district, or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facilities.
- B. No significant adverse impact: The applicant shall demonstrate that the placement of antennas or towers on property will have no significant adverse impact on surrounding private or public property.
- C. Setbacks: Tower setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Unless there are unusual geographical limitations, in residential zone districts, towers shall be set back from all property lines a distance equal to 300% of tower height as measured from ground level. Towers shall comply with the minimum setback requirements of the area in which they are located in all other zone districts.
- D. Color: Towers and antennas shall be of a color which generally matches the building, surroundings or background and minimizes their visibility, unless a different color is required by the FCC or FAA. Muted colors, earth tones and subdued colors shall be used wherever possible.
- E. Lights, signals, and signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA.

- F. Equipment Structures: Ground level equipment and buildings and the tower base shall be screened. The standards for equipment buildings are as follows:
1. The maximum floor area is three hundred fifty square feet and the maximum height is twelve feet.
 2. Ground level buildings shall be screened from adjacent properties by landscape plantings, fencing or other appropriate means, as specified in this chapter or in the City Code.
 3. Equipment mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof mounted antenna may also be located within the building on which the antenna is mounted, subject to good engineering practices. Equipment, buildings, antenna and related equipment shall occupy no more than twenty-five percent of the total roof area of a building.
- G. FCC requirements: All towers and antennas shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within three months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- H. Structural design: Towers shall be constructed to the FCC and EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Any improvements and/or additions to existing towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the FCC and EIA Standards and all other good industry practices in effect at the time of said improvement or addition. Said plans shall be submitted and reviewed at the time building permits are requested.
- I. Fencing: In the BE, B or I districts, a well-constructed wood, stucco, masonry or stone wall, not less than six feet in height from finished grade, shall be provided around each tower. The type of fencing in other districts shall be subject to city review and approval. Security fencing should be colored or should be of a design which blends into the character of the existing environment. Access to the tower shall be through a locked gate.
- J. Antenna and tower height: The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than the minimum height required to function shall be approved. Towers shall be no taller than the maximum permitted height for other structures contained within the applicable zone district, except that in the BE, B or I districts, towers may be taller pursuant to special review.
- K. Antenna support structure safety: The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
- L. Required parking: If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, adequate off-street parking shall be provided and documentation evidencing that adequate off-street parking is available shall be provided to the city.
- M. Landscaping: Landscaping in accordance with the provisions of this chapter shall be provided.
- N. Site characteristics: Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result

in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques shall be evaluated by the city, taking into consideration the site as built.

18.55.080 Antenna design criteria.

Antenna mounted on any tower, building or other structure shall comply with the following requirements:

- A. The antenna shall be architecturally compatible with the building and wall on which it is mounted so as to minimize any adverse aesthetic impact and shall be constructed, painted or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- B. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless for technical reasons the antenna needs to project above the wall. In no event shall an antenna project more than ten feet above the height of the building. Building heights shall be calculated pursuant to Chapter 18.54.
- C. The antenna and its support structure shall be designed to withstand a wind force of one hundred miles per hour without the use of supporting guy wires.
- D. No antenna, antenna array, or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing tower to which such antenna, antenna array, or support structure is attached.
- E. The antenna may be attached to an existing mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than ten feet above the enclosure.
- F. If an accessory equipment shelter is present, such building shall blend with the surrounding buildings in architectural character and color.
- G. On buildings thirty feet or less in height, the antenna may be mounted on the roof if:
 - 1. The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
 - 2. The antenna or antennas and related base stations cover no more than an aggregate total of twenty-five percent of the roof area of a building.
 - 3. Roof mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
 - 4. No portion of the antenna may extend more than ten feet above the height of the existing building as calculated in accordance with Chapter 18.54 of this title.
- H. If a proposed antenna is located on a building or a lot subject to a special review site plan, written city approval is required prior to the issuance of a building permit for the antenna.
- I. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district or site, unless such antenna has been approved in accordance with the Code and written permission is obtained from the city.
- J. No antenna shall cause localized interference with the reception or transmission of any other communications signals including, but not limited to public safety signals, and television and radio broadcast signals.

18.55.090 Landscaping and screening.

- A. Landscaping shall be required to screen as much of the support structure as possible. The fence surrounding the support structure and any other ground level features (such as a building), shall be designed to soften the appearance of the cell site. The city may permit any combination of

existing vegetation, berming, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If an antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required, except as otherwise required for the existing use.

- B. The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures:
 - 1. A row of evergreen trees a minimum of ten feet tall at planting and a maximum of six feet apart shall be planted around the perimeter of the fence; and
 - 2. A continuous hedge, at least thirty-six inches high at planting and capable of growing to at least forty-eight inches in height within eighteen months, shall be planted in front of the tree line referenced above.
- C. Landscaping shall be installed on the outside of fences. Landscaping and berming shall be equipped with automatic irrigation systems meeting the water conservation standards of the city. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.

18.55.100 Maintenance and inspections requirements.

- A. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes, regulations of the FCC and the applicable standards for towers that are published by the Electronic Industries Association (“EIA”), as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes, regulations or standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty days to bring such tower into compliance with such codes, regulations and standards. If the owner fails to bring such tower into compliance within said thirty days, the city may remove such tower at the owner's expense, the costs of which shall constitute a lien against the property.
- B. Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with the EIA and FCC Standards and within sixty days of the inspection, file a report with the city building division.

18.55.110 Non-use/abandonment.

- A. In the event the use of any tower has been discontinued for a period of sixty consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the city which shall have the right to request documentation and/or affidavits from the tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional sixty days within which to:
 - 1. Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or
 - 2. Dismantle and remove the tower. If such tower is not removed within said sixty days, the city may remove such tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. Unnecessary sections of the tower shall be removed.
- B. At the earlier of sixty days from the date of abandonment without reactivation or upon completion of dismantling and removal, city approval for the tower shall automatically expire.
- C. If an abandonment of a tower occurs by all of the permittees or licensees and the owner of the tower, the owner of the tower shall remain primarily responsible if the tower ceases to be used

for its intended purposes by either it or other permittees or licensees for the transmission or reception of personal wireless services. In the event that the tower ceases to be licensed by the FCC for the transmission of radio energy, the owner of the tower shall maintain the prescribed painting and/or illumination of such tower until it is dismantled.

18.55.120 Third party review.

- A. The personal wireless services providers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of personal wireless services, such as expected coverage area, antenna configuration and topographic constraints that affect signal paths. In certain instances there may be a need for expert review by a third party of the technical data submitted by the personal wireless services provider. The city may require such a technical review, to be paid for by the applicant for the personal wireless service facilities. The selection of the third party expert may be by mutual agreement between the applicant and city or at the discretion of the city, with a provision for the applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site-specific review of technical aspects of the personal wireless service facilities and not a subjective review of the site selection. The expert review of the technical submission shall address the following:
 - 1. The accuracy and completeness of the submission;
 - 2. The applicability of analysis techniques and methodologies;
 - 3. The validity of conclusions reached;
 - 4. Any specific technical issues designated by the city.
- B. Based on the results of the third party review, the city may require changes to the application for the personal wireless service facilities that comply with the recommendations of the expert.

18.55.130 Applicability.

The provisions of this chapter shall apply to all applications for personal wireless service facilities which were filed prior to the effective date hereof and which have not been approved by the city as of the effective date of this chapter, and to applications filed thereafter.

Chapter 18.56

NONCONFORMING USES – NONCONFORMING BUILDINGS

Sections:

18.56.005	Purpose.
18.56.010	Defined.
18.56.020	Continuation of use.
18.56.030	Change of use.
18.56.040	Abandonment of use.
18.56.050	Restoration.
18.56.060	Expansion of a nonconforming use.
18.56.070	Alteration of nonconforming building.
18.56.080	Structural changes.
18.56.090	Cessation of use.
18.56.100	Screening of unsightly areas.

18.56.005 Purpose.

The purpose of this chapter is to preserve specified property rights relating to uses and buildings that have been legally established but are not in conformance the provisions of this title.

18.56.010 Defined.

- A. A “nonconforming use” includes any legally existing use, whether within a building or on a tract of land, which does not conform to the use regulations of this title for the district in which such nonconforming use is located, either on April 9, 1973, or as a result of subsequent amendments which may be incorporated into the ordinance codified herein.
- B. A “nonconforming building” includes any legally existing building which does not conform to the minimum yard or usable open space regulations of this title for the district in which such nonconforming building is located, either on April 9, 1973, or as a result of a subsequent amendment which may be incorporated into the ordinance codified herein.

18.56.020 Continuation of use.

A nonconforming use may be continued and a nonconforming building may continue to be occupied except as both of the foregoing are otherwise provided for in this chapter.

18.56.030 Change of use.

A nonconforming use may be changed to a conforming use.

18.56.040 Abandonment of use.

If active and continuous operations are not carried on in a nonconforming use during a period of one year, the building, other structure or tract of land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.

18.56.050 Restoration.

A nonconforming building or a building containing a nonconforming use which has been damaged by fire or other causes may be restored to its original condition provided such work is started within six months of such calamity and completed within eighteen months of the time the restoration is commenced.

18.56.060 Expansion of a nonconforming use.

A nonconforming use shall not be enlarged, extended or expanded by more than twenty-five percent of its total floor area if contained within a building (or lot area if not contained within a building), existing at the time of adoption of the ordinances codified in this title.

18.56.070 Alteration of nonconforming building.

A nonconforming building may be structurally altered, repaired or enlarged provided such alterations, repairs or enlargements are in compliance with the provisions of this title; provided that no nonconforming building shall be altered, repaired or enlarged so as to cause it to further encroach into any setback established by this title.

18.56.080 Structural changes.

Any building or other structure containing a nonconforming use or any nonconforming building or portion thereof declared unsafe by the city building inspector may be strengthened or restored to a safe condition.

18.56.090 Cessation of use.

A nonconforming use of the land, not involving a building with an assessed valuation in excess of five hundred dollars, or a nonconforming sign shall be made conforming or removed within three years after April 9, 1973.

18.56.100 Screening of unsightly areas.

All unsightly areas, including, but not limited to, outside trash receptacles, loading docks, outside storage areas, utility boxes and open areas where machinery or vehicles are stored or repaired on property developed prior to February 1, 1988, shall be screened from view from public sidewalks, streets and other public areas pursuant to Section 4.06 of the Site Development Performance Standards and Guidelines within two years of adoption of the ordinance codified in this section.

Chapter 18.60

ZONING BOARD OF ADJUSTMENT*

Sections:

18.60.005	Purpose.
18.60.010	Board of adjustment established.
18.60.020	Powers and duties.
18.60.030	General variance review criteria.
18.60.040	Sign variance review criteria.
18.60.050	Applications.
18.60.060	Procedure.
18.60.070	Notice.

*For statutory provisions regarding boards of adjustment, see C.R.S. 31-23-301 and 31-23-307.

18.60.005 Purpose.

The purpose of this chapter is to establish provisions that provide the zoning board of adjustment with authority to grant variances to the regulations contained in this title.

18.60.010 Board of adjustment established.

The planning commission shall serve as the board of adjustment for the city.

18.60.020 Powers and duties.

The board of adjustment shall have the powers and duties to grant variances from certain standards set forth in this Title 18 subject to and in compliance with this chapter and the laws of the state. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this title, the board of adjustment may vary or modify certain regulations or provisions to the title so that the spirit of the title is observed, public safety and welfare secured, and substantial justice done.

The board of adjustment shall have the power to grant variances for properties within each zoning district; however, variances cannot be granted to authorize a special review use or a use not otherwise permitted within a given zoning district.

The board of adjustment has the power to vary or modify the application of the regulations or provisions of this title related to the following:

Standards for lot area, lot dimensions, setback requirements, and other dimensional and numerical standards within this title, with the exception of standards relating to building height (see Chapter 18.54) and limited to standards relating to signs as specified in Section 18.60.040 below.

After considering if a proposed variance meets the applicable criteria in Section 18.60.030 and 18.60.040 below, the board shall take action to approve, approve with conditions or deny the application.

18.60.030 General variance review criteria.

To approve a zoning variance application, the board of adjustment shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- A. There are unique circumstances or conditions that are particular to or related to the land or structure for which the variance is requested. The circumstances may include, but are not limited to, exceptional topographic conditions, the shape or dimensions of the property, or the existence of mature landscaping or natural features that impact the property;
- B. The special circumstances are not the result of actions or inactions by the applicant or the current owner;
- C. The strict interpretation and enforcement of the provisions of the Code would cause an unnecessary or undue hardship;
- D. Granting the variance is the minimum action needed to accommodate or alleviate the difficulty or hardship involved;
- E. The variance would not substantially impact the reasonable use and enjoyment or development of other property in the vicinity of the subject land or structure;
- F. The variance would not authorize any use in a zoning district other than a use specifically permitted in such zoning district; and
- G. The variance would not waive or modify the requirements of any use approved by special review.

18.60.040 Sign variance review criteria.

- A. Variances to the requirements of Chapter 18.50 shall not be permitted, except as related to the requirements concerning the setback of a freestanding sign, the spacing between freestanding signs, or the maximum sign area. To approve a zoning variance application to Chapter 18.50, the board must consider the following review criteria and find that each criterion has been met.
 - 1. There are special physical circumstances or physical conditions, including, without limitation, buildings, topography, vegetation, sign structures, or other physical features on adjacent properties or within the adjacent public right-of-way that would substantially restrict the effectiveness of the sign in question, and such special circumstances or conditions are unique to the business to which the applicant desires to draw attention and do not apply generally to all businesses in the area;
 - 2. The variance would be consistent with the purposes set forth in Section 18.50.010 and would not adversely affect the neighborhood or other businesses within the vicinity in which the subject business is located; and
 - 3. The variance is the minimum necessary to permit the applicant to reasonably draw attention to its business.
- B. In addition to the above criterion, for signs that contain an electronic message module, the board must consider the review criteria in Section 18.50.100A.4.h. and find that each criterion has been met.

18.60.050 Applications.

Any person seeking action or review upon any matter within the jurisdiction of the board of adjustment, shall make an application on forms provided by the current planning division. The application shall be accompanied by such supporting material as may be required. The applicant shall also pay, at the time of filing of the application, any required filing fee as established by resolution of council.

18.60.060 Procedure.

The board of adjustment may designate one or more hearing officers from within the board to conduct public hearings on matters coming before the board. The designated hearing officer shall have the discretion to forward any matter onto the full board of adjustment for the initial public hearing. Within ten days after the conclusion of any hearing conducted by the hearing officer, the hearing officer

shall submit proposed findings and order to the board, to the applicant, and to all parties participating in the hearing, which findings and order shall constitute the hearing officer's final decision. The hearing officer's final decision may be appealed to the full board of adjustment by any party-in-interest as defined in Chapter 18.80, by the filing of a written appeal with the current planning division in accordance with the provisions contained in Section 18.80.030.B, within ten days of the decision of the hearing officer. If an appeal is filed, the hearing officer shall forward to the board of adjustment the record of the hearing. The board shall consider any such appeal on the first available date for which proper notice can be provided pursuant to Chapter 18.05. The appeal shall be conducted as a de novo hearing as defined in Chapter 18.80, and shall follow the procedures set forth in Section 18.80.090. Whether as a result of an initial public hearing by the board or an appeal of the hearing officer's final decision, the board shall submit its findings and order to the applicant and all parties participating in the hearing within thirty days following the conclusion of the hearing. The findings and order of the board representing the board's final decision, may be appealed to council by any party-in-interest as defined in Chapter 18.80, by the filing of a written appeal with the current planning division in accordance with the provisions contained in Section 18.80.030.B within ten days of the mailing of the findings and order. Council shall consider any such appeal at a public hearing noticed in accordance with Section 18.80.050C. and conducted in accordance with Section 18.80.090. Unless otherwise stated in the findings and order, or in the decision of council, all permits or actions authorized as a result of an approval of a variance must be initiated within six months of the date such findings and order became final. Upon written request by the applicant, an additional six months may be granted by the current planning manager for initiating such permits or actions. In reviewing the proposed time extension, the current planning manager shall consider the following criteria:

- A. Has there been a change of zoning for the site, or for any property adjacent to the site since the original approval?
- B. Has a change of use taken place on the site or on any adjacent property since the original approval, or is a change of use proposed for the site which would be divergent from the use shown in the application documents for the original variance?
- C. Have there been changes in the regulations and requirements specified in the Loveland Municipal Code which are applicable to the site and which should be addressed prior to the development of the site?
- D. Has the ownership of any adjacent property changed?
- E. Will the granting of the extension be detrimental to the public health, safety, or general welfare?
- F. Will the granting of the extension be in keeping with the purposes set forth in this title to the same degree as intended in the original approval?

18.60.070 Notice.

Notice requirements for appeals shall be provided in accordance with Chapter 18.80. All other notices required by this chapter shall be provided pursuant to Chapter 18.05.

Chapter 18.64

AMENDMENTS

Sections:

- 18.64.005 Purpose.**
- 18.64.010 General procedure.**
- 18.64.020 Special procedure.**
- 18.64.030 Limitation on change of zoning map.**
- 18.64.040 Procedure for addition of uses not itemized.**

18.64.005 Purpose.

The purpose of this chapter is to establish procedures allowing for the amendment of this title and for the rezoning of property.

18.64.010 General procedure.

This title and the zoning district map may be amended by council after the planning commission and council have given public notice of any such proposed amendment, and after holding public hearings thereon, in accordance with the statutes of the state; provided, the zoning of all real property is in compliance with the statutes of the state.

18.64.020 Special procedure.

- A. Any person may petition the planning commission and council to change the zoning of any real property within the city upon filing with the city clerk a petition in such form and content as shall be prescribed by the city clerk; provided, such petition is filed in accordance with the provisions of any ordinances of the city pertaining thereto.
- B. No such petition shall be accepted for filing by the city clerk until the following requirements are met:
 - 1. All filing fees required by the ordinances of the city have been paid;
 - 2. The applicant has submitted a certified list and mailing labels as required by Section 18.05.040.
- C. All notices required by this chapter shall be provided pursuant to Chapter 18.05.
- D. No later than five days after the city's development review team meets to review a proposed rezoning, the current planning manager shall schedule all required hearings before the planning commission and council. No petition for rezoning shall be deemed complete until it has been reviewed by the development review team for compliance with the city's submittal requirements and the applicant has conducted a neighborhood meeting in accordance with the following requirements:
 - 1. Within two weeks of submittal of a petition to change zoning the applicant shall conduct a neighborhood meeting.
 - 2. Written notice of the neighborhood meeting shall be given pursuant to Chapter 18.05.
 - 3. Prior to the neighborhood meeting, the applicant shall provide the city with an affidavit certifying that the notification requirements set forth in this section have been met pursuant to Chapter 18.05. Failure to provide the required affidavit or evidence of a defective mailing list shall result in termination of the review process until proper notice is provided and the neighborhood meeting conducted.

18.64.030 Limitation on change of zoning map.

No petition for rezoning shall be granted where, within one year preceding the date of the filing of such petition with the city clerk, a petition for the same change of the zoning district of the property described in such petition has been denied.

18.64.040 Procedure for addition of uses not itemized.

Upon application, or on its own initiative, council may, through the general procedures stated in Section 18.64.010, add to the uses listed for a zoning district.

Chapter 18.68

ENFORCEMENT – PENALTIES

Sections:

18.68.005	Purpose.
18.68.010	Methods.
18.68.020	Building permit.
18.68.030	Certificate of occupancy.
18.68.040	Inspection.
18.68.045	Code enforcement guidelines.
18.68.050	Violation.
18.68.060	Injunction.
18.68.070	Penalty.
18.68.080	Liability for damages.

18.68.005

The purpose of this chapter is to establish the methods for enforcing this title and the penalty for violations.

18.68.010 Methods.

The provisions of this title shall be enforced by the following methods:

- A. Requirement of a building permit;
- B. Requirement of a certificate of occupancy;
- C. Inspection and ordering removal of violations;
- D. Proceedings in municipal court; and
- E. Injunction.

18.68.020 Building permit.

No building shall be erected, moved or structurally altered unless a building permit therefore has been issued by the city building official or his authorized representative. All permits shall be issued in conformance with the provisions of this title and all other applicable city ordinances.

18.68.030 Certificate of occupancy.

- A. No land or building shall hereafter be changed to a business, commercial, industrial or residential use nor shall any new structure, building or land be occupied for a business, commercial, industrial or residential use unless the owner first has obtained a certificate of occupancy from the city building official.
- B. Provided the use is in conformance with the provisions of this title, a certificate of occupancy shall be issued within three days of the time of notification that the building is completed and ready for occupancy. A copy of all certificates of occupancy shall be filed by the city building official and shall be available for examination by any person with either proprietary or tenancy interest in the property or building.

18.68.040 Inspection.

- A. The city building official and his authorized representatives are empowered to cause any building, other structure or tract of land to be inspected and examined in accordance with Chapter 1.08, and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this title.

- B. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct or comply with such violation. Such building official and his authorized representatives are authorized and duly appointed to issue summonses and complaints and penalty assessment notices for any violation of the provisions of this title.

18.68.045 Code enforcement guidelines.

A duly appointed peace officer or code enforcement officer of the city may enforce the provisions of this title and of Titles 15 and 16 of the City Code by the issuance of a summons and complaint as provided in Rule 204 of the Colorado Municipal Courts Rules of Procedure.

18.68.050 Violation.

A person is guilty of a violation of this title in any case where:

- A. Any violation of any of the provisions of this title or of any agreement or development plan approved under this title or under Title 16, exists in any building, other structure or tract of land; or
- B. An order to remove any alleged violation has been served upon the owner, general agent, lessee or tenant of the building, other structure or tract of land (or any part thereof) or upon the architect, builder, contractor or any other person who commits or assists in any alleged violation, and such person fails to comply with such order within fifteen days, excluding weekends and legal holidays, after the service thereof.

18.68.060 Injunction.

In addition to any of the foregoing remedies, the city attorney acting in behalf of council may maintain an action for an injunction to restrain any violation of this title.

18.68.070 Penalty.

Any person, firm or corporation violating any provisions of this title, upon conviction therefore, shall be fined not more than one thousand dollars or incarcerated not more than one year, or both. Each day during which the illegal erection, construction, reconstruction, alteration, maintenance, use, or any other violation of this title continues, is deemed a separate offense.

18.68.080 Liability for damages.

This title shall not be construed to hold the city responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or by reason of issuing a building permit as herein provided.

Chapter 18.72

VESTED PROPERTY RIGHTS

Sections:

18.72.010	Purpose.
18.72.020	Definitions.
18.72.030	Application for a vested property right.
18.72.040	Establishing vested property right by publication of notice.
18.72.050	Effect of approval and term of vested property right.
18.72.060	Plan language required.
18.72.070	Applicable standards and regulations.
18.72.080	Waiver of vested property right.
18.72.090	Modifications.
18.72.100	Other provisions unaffected.
18.72.110	Limitations.
18.72.120	General development plans.
18.72.130	Term of vested property right.
18.72.140	Effect of new site specific development plan.

18.72.010 Purpose.

The purpose of this chapter is to provide the procedures necessary to implement the provisions of the Colorado Vested Rights Act, which establishes the process by which a landowner can establish a vested property right to undertake and complete development and use of the real property under the terms and conditions of an approved Site Specific Development Plan.

18.72.020 Definitions.

As used in this chapter:

“Colorado Vested Rights Act” or “act” shall mean C.R.S. 24-68-101 *et seq.*

“Final approval” of a site specific development plan shall mean, that following a properly noticed public hearing under this chapter, the decision of the planning commission or council, as applicable, approving a site specific development plan, for which decision there is no remaining right to appeal under the Code, even if there remains the right to appeal to the courts or the right of referendum under the Charter.

“Site specific development plan” shall mean a preliminary development plan approved in compliance with Chapter 18.41, a special review permit approved in compliance with chapter 18.40, or a development agreement approved in compliance with Title 16 or Title 18 of the Code; provided that the preliminary development plan, the special review permit, or the development agreement describes with reasonable certainty the type and intensity of use proposed for a specific parcel or parcels of real property.

“Vested property right” shall mean the legal right established in accordance with this chapter to undertake and complete the development and use of real property under the terms and conditions of a site specific development plan, which shall include, without limitation, the requirement to submit a final development plan within one year of approval of a preliminary development plan, as provided in Section 18.41.050D.13.

18.72.030 Application for a vested property right.

An application for a vested property right shall be made in writing on a form provided by the city as part of an application for the applicable site specific development plan. The site specific development

plan shall describe, with reasonable certainty, the type and intensity of the proposed development. Therefore, none of the submittal requirements that may affect the type and intensity of use may be waived for a development application designated as a site specific development plan for which a vested property right application has been submitted. Any additional information deemed necessary by the director regarding items which may directly or indirectly affect the type or intensity of development under the site specific development plan may be required during the applicable review process.

18.72.040 Establishing vested property right by publication of notice.

The public hearing at which the final approval is considered shall be preceded by public notice of such hearing, including the intent to obtain a vested property right, as provided in Section 16.16.070. To establish a vested property right under this chapter for a site specific development plan, the city shall, within fourteen days following the final approval of the site specific development plan, publish in a newspaper of general circulation within the city a notice advising the general public of the site specific development plan approval and the creation of a vested property right pursuant to this chapter for that site specific development plan. If such notice is either not timely published, or contains any material errors, the city shall republish the notice at its expense and the three year vesting period shall be deemed to have commenced fourteen days after final approval of the site specific development plan.

18.72.050 Effect of approval and term of vested property right.

- A. Final approval of a site specific development plan and subsequent timely publication of the notice required by Section 18.72.040 shall create a vested property right to undertake and complete development and use of the subject real property in accordance with the terms and conditions contained in the approved site specific development plan and subject to the requirements and limitations of this chapter.
- B. The grant of a vested property right under this chapter for an approved site specific development plan shall not prevent the city, in subsequent actions, from applying any of the following to the subject real property:
 1. Any ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the city, including building, fire, plumbing, electrical, engineering, and mechanical codes or other technical standards of the city as the same may be enacted or amended from time-to-time;
 2. New ordinances, rules, regulations, and policies that are specifically anticipated and provided for in the terms or conditions of the approved site specific development plan;
 3. New ordinances, rules, regulations, and policies that are necessary for the immediate preservation of the public health and safety; or
 4. New ordinances, rules, regulations, and policies when the city finds that the site specific development plan is based on substantially inaccurate information supplied by the applicant.
- C. A vested property right shall remain vested for a period of three years from the date of publication of the notice required by Section 18.72.040, unless a longer term is agreed to by the city in a development agreement approved in accordance with Title 16 or Title 18 of the Code.

18.72.060 Plan language required.

Each site specific development plan shall contain the following language: "The City of Loveland's approval of this plan, or agreement, as applicable, creates a Vested Property Right under the City Code Chapter 18.72 subject to all the terms, conditions and limitations of this plan, or agreement and subject to the provisions of City Code Chapter 18.72. The effective date of this Vested Property Right is (insert date of publication of notice)."

18.72.070 Applicable standards and regulations.

The review, approval, approval with conditions, or denial of an application for a site specific development plan shall be governed by the duly adopted laws and regulations in effect at the time a complete application for such plan was submitted pursuant to this chapter. The application for a vested property right under this chapter for a site specific development plan shall be deemed complete only if the application related to such plan is deemed complete in accordance with the applicable provisions of the Code. Notwithstanding the foregoing, the city may apply to a pending complete application for a site specific development plan any subsequently enacted or amended ordinances, rules, regulations, or policies that are necessary for the immediate preservation of the public health or safety.

18.72.080 Waiver of vested property right.

A property owner may waive a vested property right by separate agreement with the city, which agreement shall be recorded with the Larimer County Clerk and Recorder. Upon such recording, the vested property right shall be deemed to have expired. Unless otherwise agreed to by the city, any property owner requesting annexation to the city shall waive in writing any pre-existing vested property right as a condition of such annexation.

18.72.090 Modifications.

Modifications or amendments to a site specific development plan shall be processed in accordance with applicable provisions of the Code. In the event that minor modifications to a site specific development plan are approved under the applicable provisions of Title 18 (or under prior law, if applicable), the effective date of such minor modifications, for purposes of duration of vested rights, shall be the date of the final approval of the original site specific development plan. The final approval of major modifications to a site specific development plan under the applicable provisions of title 18 (or under prior law, if applicable), shall create a new vested property right with effective period and term as provided in this chapter, unless expressly stated otherwise in the decision approving such major modification.

18.72.100 Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other applicable provisions of the Code pertaining to the development and use of the subject real property.

18.72.110 Limitations.

Nothing in this chapter is intended to create any vested property rights other than such rights as established pursuant to the provisions of the Colorado Vested Rights Act. In the event of the repeal of the act, or a judicial determination that the act is invalid or unconstitutional, this chapter shall be deemed to be repealed and the affected provisions of this chapter no longer effective.

18.72.120 General development plans.

- A. Final Approval of a general development plan does not grant a vested property right, unless council grants such rights in a development agreement approved in accordance with Title 16 or Title 18 of the Code.
- B. The approval of, or completion of work pursuant to, a preliminary development plan for portions of a general development plan shall not create a vested property right under this chapter for those portions of the general development plan which have not received approval of, or completion of work pursuant to, such preliminary development plan.

18.72.130 Term of vested property right.

Within the period of time for which a vested property right is granted under this chapter as provided in Section 18.72.050C., the applicant shall undertake, install and complete all engineering improvements (water, sewer, streets, curb, gutter, sidewalk, street lights, fire hydrants, and storm drainage facilities) in accordance with city codes, rules, and regulations. Such period of time shall constitute the “term of vested right.” Failure to undertake and complete the development within the term of the vested right shall cause a forfeiture of such vested property rights. All dedications as contained on the final subdivision plat shall remain valid unless such plat is vacated in accordance with law.

18.72.140 Effect of new site specific development plan.

In the event that a new site specific development plan is approved for a parcel of real property which had been subject to a previously approved site specific development plan and that constituted all of the real property in that previously approved plan, the final approval of such new site specific development plan shall cause the automatic expiration of the previously approved site specific development plan and of any remaining vested property right associated with such plan. In the event that a site specific development plan is approved for a parcel of real property which constitutes only a portion of all the property included in a previously approved site specific development plan, the final approval of the new site specific development plan for such portion shall result in the removal of that portion of the real property from the previously approved plan. That portion of the property removed shall thereafter be governed by the new plan, and shall be reviewed according to all other applicable provisions of the Code, and the remaining real property in the previously approved site specific development plan shall continue to be governed by that plan.

Chapter 18.76

SEXUALLY ORIENTED BUSINESS ZONING

Sections:

- 18.76.010 Purpose.**
- 18.76.015 Locations.**
- 18.76.020 Measurement of distance.**
- 18.76.030 Other locational regulations.**

18.76.010 Purpose.

The purpose of this chapter is to establish locational requirements and associated provisions for sexually oriented businesses.

18.76.015 Locations.

- A. No person shall operate or cause to be operated a sexually oriented business within any zone district other than an industrial zone district.
- B. No person shall operate or cause to be operated a sexually oriented business within one thousand five hundred feet of:
 - 1. Any place of worship or assembly; or
 - 2. Any school meeting all requirements of the compulsory education law of the state or licensed with the state as a preschool; or
 - 3. The boundary of any residential district; or
 - 4. Any daycare facility licensed with the state; or
 - 5. Any park.
- C. No person shall operate or cause to be operated a sexually oriented business within one thousand five hundred feet of any other sexually oriented business.
- D. No person shall cause or permit the operation, establishment, or maintenance of more than one sexually oriented business within the same building, structure, or portion thereof.

18.76.020 Measurement of distance.

- A. For purposes of this chapter, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of each business.
- B. For purposes of this chapter, the distance between any sexually oriented business and any place of worship or assembly, school, residential district, licensed daycare facility, or park shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted to the nearest property line of the premises of a place of worship or assembly, school, residential district, licensed daycare facility, or park.

18.76.030 Other locational regulations.

- A. Any sexually oriented business lawfully operating on the effective date of the ordinance from which this section derives (Ordinance No. 4453) that is in violation of Section 18.76.010 shall be permitted to continue operation as a non-conforming use and shall be subject to the requirements of Chapter 18.56 concerning nonconforming uses.
- B. If two or more sexually oriented businesses are within one thousand five hundred feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at the particular location shall be deemed to be in

compliance with Section 18.76.010 and the later established business shall be deemed a non-conforming use pursuant to Section 18.76.010A.

- C. A sexually oriented business lawfully operating is not rendered in violation of Section 18.76.010 by the location, subsequent to the issuance or renewal of the sexually oriented business license, of a place of worship or assembly, school, residential district, licensed daycare facility, or park within one thousand five hundred feet of the sexually oriented business. This exemption applies only to the renewal of a valid license and does not apply when an application for a sexually oriented business license is submitted after such a license has expired or has been revoked.

Chapter 18.77

OIL AND GAS REGULATIONS

Sections:

18.77.010	Authority.
18.77.015	Purpose.
18.77.020	Applicability.
18.77.025	Rules of construction and definitions.
18.77.030	Zoning.
18.77.035	Alternative permit processes.
18.77.040	Conceptual review.
18.77.045	Planning commission review process.
18.77.050	Administrative review process.
18.77.055	Baseline standards for planning commission review process.
18.77.060	Baseline standards for planning commission and administrative review processes.
18.77.065	Enhanced standards for administrative review process.
18.77.070	Application requirements.
18.77.075	Variances.
18.77.080	Transfer of permits.
18.77.082	Expiration of permits.
18.77.085	Other applicable code provisions.
18.77.090	Emergency response costs.
18.77.095	Application and inspection fees.
18.77.100	Capital expansion fees.
18.77.105	Reimbursement for consultant costs.
18.77.110	Adequate transportation facilities
18.77.115	Insurance and performance security.
18.77.120	Inspections, right to enter, and enforcement.
18.77.125	Violations, suspension and revocation of permits, civil actions and penalties.
18.77.130	Conflicting provisions.

18.77.010 Authority.

This chapter is enacted pursuant to the city's police powers and land-use authority under Article XX of the Colorado Constitution, C.R.S. 31-1-101 *et seq.*, the OGC Act, the COG regulations and under all other applicable laws, rules and regulations. It is the intent of this chapter that these powers and authority be exercised in a manner that will not create an operational conflict with the provisions of the OGC Act or the COG regulations, which conflict could arise if any application of this chapter has the effect of materially impeding or destroying a state interest as expressed in the OGC Act or the COG regulations. The provisions of this chapter are therefore to be interpreted and applied in a manner that is consistent and in harmony with any conflicting provisions of the OGC Act or the COG regulations, so as to avoid an operational conflict.

18.77.015 Purpose.

The purpose of this chapter is to generally protect the public's health, safety and welfare and the environment and more specifically to regulate oil and gas operations within the city so as to minimize the potential land use conflicts and other adverse impacts that may negatively affect existing and future land uses when oil and gas operations occur within the city near those uses. This purpose is

intended to be achieved in a manner that recognizes the state's interests in oil and gas operations as expressed in C.R.S. 34-60-102, which include: fostering the responsible and balanced development of the state's oil and gas resources in a manner consistent with the protection of the public's health, safety and welfare, including protection of the environment and wildlife resources; protecting public and private interests against waste in both the production and use of oil and gas; and allowing Colorado's oil and gas pools to produce up to their maximum efficient rate subject to the prevention of waste, protection of the public's health, safety and welfare, protection of the environment and wildlife resources, and the protection and enforcement of the rights of owners and producers to a common source of oil and gas so that each owner and producer obtains a just and equitable share of production from that source.

18.77.020 Applicability.

Except as otherwise provided in this section, the provisions of this chapter shall apply to all surface oil and gas operations occurring within the city's boundaries, which shall include, without limitation, any oil and gas operation requiring the commission's issuance or reissuance of a drilling permit or any other permit under the COG regulations. Prior to any person commencing any such operations within the city, that person shall apply for and receive an oil and gas permit from the city in accordance with the provisions of this chapter. This chapter, however, shall not apply to those surface oil and gas operations for which a drilling permit was issued under the COG regulations prior to April 2, 2013, the effective date of this chapter, and under which permit the oil and gas operations were commenced before April 2, 2013. It shall also not apply to any surface oil and gas operations occurring on real property annexed into the city on or after April 2, 2013, provided those operations are occurring as of the effective date of the annexation pursuant to a drilling permit issued under the COG regulations. This chapter shall apply to all other surface oil and gas operations occurring within the city's boundaries after April 2, 2013.

18.77.025 Rules of construction and definitions.

- A. The words, terms and phrases expressly defined in this section shall have the meaning hereafter given them, unless the context requires otherwise. The words, terms and phrases used in this chapter not defined in this section shall have the meaning given to them in the OGC Act, the COG regulations or in Chapter 18.04, and where there is more than one definition, the controlling definition shall be the one that is most consistent with the city's authority described in Section 18.77.010 and with the city's purposes for enacting this chapter as described in Section 18.77.015. Words, terms and phrases not defined in this section, the Act, the COG regulations or chapter 18.04, shall be given their commonly accepted meaning unless they are technical in nature, in which case they should be given their technical meaning generally accepted by the industry in which they are used. Therefore, for those words, terms and phrases peculiar to the oil and gas industry, they shall be given that meaning which is generally accepted in the oil and gas industry. Words, terms and phrases of a legal nature shall be given their generally accepted legal meaning.
- B. When determining the end date of a time period under this chapter, the day on which the time period begins shall not be counted and the last day shall be included in the count. If the last day is a Saturday, Sunday or federal or state legal holiday, that day shall be excluded in the count.
- C. As used in this chapter:

“Abandonment” means the plugging process of cementing a well, the removal of its associated production facilities, the removal or abandonment in-place of its flowline, and the remediation and reclamation of the wellsite.

“Act” or “OGC Act” means the Colorado Oil and Gas Conservation Act as found in C.R.S. 34-60-101 *et seq.*

“Administrative review process” means the expedited and enhanced review process set out in Section 18.77.050.

“Adverse effect” or “adverse impact” means the impact of an action that is considerable or substantial and unfavorable or harmful. The term includes social, economic, physical, health, aesthetic, historical impact, and/or biological impacts, including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

“Applicant” means any person possessing the legal right to develop oil or gas underlying land located within the city’s boundaries and who has applied for an oil and gas permit under this chapter.

“Application” means an application filed with the city by any person requesting an oil and gas permit under this chapter.

“Baseline standards” means those review standards and operation requirements set out in Sections 18.77.055 and 18.77.060.

“Best management practices” means the best proven and commercially practicable techniques, technologies and practices that are designed to prevent or minimize adverse impacts caused by oil and gas operations to the public health, safety or welfare, including the environment and wildlife resources.

“Building” means any residential or non-residential structure designed and permitted to be occupied by natural persons.

“City manager” means the city’s duly appointed city manager or his or her designee.

“COG permit” means a permit issued by the commission to drill, deepen, re-enter or recomplete and conduct any other oil and gas operation as allowed under the COG regulations.

“COG rule” or “COG regulations” means the Colorado Oil and Gas Rules and regulations duly adopted by the commission, as amended, including 2 Colo. Code Regs. 400; et seq.

“Commission” means the Oil and Gas Conservation Commission of the State of Colorado.

“Completion” means, for the completion of an oil well, that the first new oil is produced through wellhead equipment into leased tanks from the ultimate producing interval after the production string has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production string has been run. A dry hole shall be considered completed when all provisions of plugging are complied with as set out in the COG regulations. Any well not previously defined as an oil or gas well, shall be considered completed ninety days after reaching total depth. If approved by the director of the commission, a well that requires extensive testing shall be considered completed when the drilling rig is released or six months after reaching total depth, whichever is later.

“Completion combustion device” means any ignition device, installed horizontally or vertically used in exploration and production operations to combust otherwise vented emissions from completions.

“Designated agent” means the designated representative of any operator.

“Enhanced standards” means those review standards and best management practices set out in Section 18.77.065.

“Gas” means all natural gases and all hydrocarbons not defined in this section as oil.

“High occupancy building” means any residential or non-residential structure design to be occupied by natural persons and permitted with an occupancy rating for fifty persons or more.

“Hydraulic fracturing” means all the stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geological formation to enhance production of oil and gas.

“Inspector” means any person designated by the city manager who shall have the authority to inspect a well site to determine compliance with this chapter and any other applicable city ordinances.

“Minimize adverse impacts” means, whenever reasonably practicable, to avoid significant adverse impacts to wildlife resources, the environment, or to the public’s health, safety or welfare from oil and gas operations, minimize the extent and severity of those impacts that cannot be avoided,

mitigate the effects of unavoidable remaining impacts, and take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts.

“Natural area” means those areas described or identified as natural areas in the Open Lands Plan.

“Oil” means crude petroleum oil and any other hydrocarbons, regardless of gravities, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir.

“Oil and gas facility” means equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, gathering, treatment or processing of oil or gas, which shall include, without limitation, any and all storage, separation, treating, dehydration, artificial lift, compression, pumping, metering, monitoring, aboveground flowlines, and other equipment directly associated with oil wells, gas wells, or injection wells. However, “oil and gas facility” shall not include aboveground or underground power supply, underground flow lines, or underground water lines.

“Oil and gas operations” or “operations” means exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, re-entering, recompletion, reworking or abandonment of an oil and gas well, underground injection well or gas storage well; production operations related to any such well including the installation of flowlines and gathering lines; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations.

“Operator” means a person who has the legal right under a permit issued under this chapter and under a COG permit issued by the commission to conduct oil and gas operations on the surface within the city’s boundaries by drilling into and producing from a pool and to appropriate the oil or gas produced therefrom either for the operator or for the operator and an owner.

“Outdoor assembly area” means an improved facility, not within a building, designed to accommodate and provide a place for natural persons to congregate and is capable of being reasonably occupied by fifty or more natural persons at any one time, but the front, side and rear yards of residential lots shall not be considered an “outdoor assembly area.”

“Owner” means any person having an ownership interest in the oil and gas resources underlying land either as the owner of a corporeal estate in realty or as an owner of a leasehold interest therein.

“Permit” or “oil and gas permit” means a permit issued by the city to an applicant under this chapter.

“Person” means any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary or any other kind of entity or representative, and includes any department, agency or instrumentality of the state or any political subdivision thereof and any county, city and country, home rule municipality, statutory municipality, authority or special district.

“Pit” means any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils. This shall include, without limitation and as applicable, “production pits,” “special purpose pits,” “reserve pits,” “multi-well pits” and “drilling pits,” as these are defined in the COG regulations.

“Planning commission review process” means the review process set out in Section 18.77.045.

“Seismic operations” means all activities associated with the acquisition of seismic data including, but not limited to, surveying, shothole drilling, recording, shothole plugging and reclamation.

“Significant degradation” means any degradation to the environment that will require significant efforts and expense to reverse or otherwise mitigate that degradation.

“Surface owner” means any person having title or right of ownership in the surface estate of real property or any leasehold interest therein.

“Surface water body” includes, but not be limited to, rivers, streams, ditches for the conveyance of water for irrigation or domestic water supply use, reservoirs, and lakes.

“VOCs” means volatile organic compounds.

“Well” means an oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

“Well blowdown” means the maintenance activity designed to remove fluids from mature wells during which time gas is often vented to the atmosphere.

“Well completion” means the process that perforates well casing, stimulates the reservoir using various techniques including, but not limited to, acid treatment and hydraulic fracturing, allows for the flowback of oil or natural gas from wells to expel drilling and reservoir fluids, and tests the reservoir flow characteristic, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

“Wellhead” means the equipment attached to the casinghead of an oil, gas or injection well above the surface of the ground.

“Wetlands” shall have the same meaning as this word is defined in Section 18.41.110.

18.77.030 Zoning.

Notwithstanding any provision in this Code to the contrary, oil and gas operations shall be permitted in all of the city’s zoning districts, planned unit developments, general development plans, unit developments and within any other city-approved land uses, but only if a permit has been issued to the extent required by this chapter and a COG permit has been issued by the commission for those oil and gas operations.

18.77.035 Alternative permit processes.

Any person applying for a permit under this chapter must proceed under the planning commission review process as provided in Section 18.77.045, unless the applicant voluntarily chooses to proceed under and qualifies for the expedited and enhanced administrative review process as provided in Section 18.77.050. The permit application under the planning commission review process shall be reviewed and granted or denied on the basis of the applicable baseline standards set out in Sections 18.77.055 and 18.77.060 and any other applicable standards and requirements in this chapter and code. A permit application under the administrative review process shall be reviewed and granted or denied under the applicable baseline and enhanced standards set out in Sections 18.77.060 and 18.77.065 and any other applicable standards and requirements in this chapter and code.

18.77.040 Conceptual review.

Prior to any person submitting an application under this chapter, that person shall first schedule with current planning and attend a conceptual review meeting with the city’s development review team. Current planning shall schedule such meeting within fifteen days after a written request for the meeting has been received. At least fifteen days before the scheduled conceptual review meeting, the person requesting the meeting shall submit to current planning in electronic form or one hard-copy set of all applications, plans, studies and other documents that such person has filed or will be required to file with the commission under the COG regulations to obtain a COG permit for the oil and gas operations proposed to be conducted within the city. The purpose of the conceptual review meeting is to give the prospective applicant and the city’s development review team the opportunity to discuss the proposed oil and gas operations and to discuss the city’s application and review processes under this chapter. This will include a discussion as to whether the prospective applicant is interested in using the expedited and enhanced administrative review process rather than the planning commission review process. Within fifteen days after the meeting, current planning shall provide the prospective applicant with the development review team’s written comments and recommendations concerning the proposed oil and

gas operations. When these comments and recommendations are sent to the prospective applicant by current planning, the prospective applicant shall have ninety days thereafter in which to file with current planning an application for the proposed oil and gas operations. Failure to file that application within this time period will require the prospective applicant to schedule and conduct another conceptual review meeting under this section for those oil and gas operations. However, in the event current planning fails to timely provide development review team's written comments and recommendations to the prospective applicant, the prospective applicant may proceed to file its application with current planning within ninety days thereafter.

18.77.045 Planning commission review process.

- A. Application completeness review. After an application has been filed with current planning, the director shall review the application for completeness to determine its compliance with the applicable requirements of Section 18.77.070. If the director determines that any of those applicable requirements have not been satisfied, the director shall, within fifteen days after the application is filed, notify the applicant in writing of any deficiencies in the application. This process of review and notice of deficiency shall continue until the director determines the application satisfies all applicable requirements of Section 18.77.070 and is, therefore, a complete application. The director shall notify the applicant in writing that the application is complete within fifteen days after the later of the filing of the application or the filing of the last application resubmittal in response to a notice of deficiency from the director. Promptly thereafter, current planning shall post the complete application on the city's website for public review, but excluding any information required in this chapter to be kept confidential.
- B. Development review team. After an application is filed with current planning and has been determined by the director to be a completed application, it shall be reviewed by the development review team. The development review team shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this Code. As part of this review, the development review team may meet with the applicant or the applicant's representatives to discuss the application and to present the development review team's questions, concerns and recommendations. Within thirty days after the application has been determined by the director to be a complete application, the development review team shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty days of the issuance of the development review team's report, the applicant may supplement its application in response to the development review team report.
- C. Neighborhood meeting. Promptly after the director has issued the written determination that the application is complete, current planning shall schedule a neighborhood meeting to be held within forty-five days of the director's written determination of completeness. Once that neighborhood meeting has been scheduled, notices of the neighborhood meeting shall be provided in accordance with all applicable requirements of Chapter 18.05. The mailed notice required for neighborhood meetings under chapter 18.05 shall also be sent to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are proposed to be located. In addition to the other contents required for the mailed notice under chapter 18.05, the mailed notice shall state that the application can be reviewed prior to the neighborhood meeting on the city's website or at the current planning division's office. The neighborhood meeting shall be conducted by the current planning division. The applicant or a representative of the applicant shall attend the neighborhood meeting and be available to answer questions concerning the application. The objective of a neighborhood meeting shall be to inform noticed persons and other interested citizens attending the meeting of the scope and nature of the

proposed oil and gas operations under the application and how the operations will be regulated under this chapter and the COG regulations. Notwithstanding the foregoing, the director may waive the provisions of this Subsection C. if the director determines that the city's required notices and neighborhood meeting under this subsection will be duplicative of the notice and neighborhood meeting requirements under the COG regulations for the applicant's COG permit. To be considered duplicative, the commission's neighborhood meeting must be held within the city.

- D. Planning commission hearing. Current planning shall schedule the application for a public hearing before the planning commission within forty-five days after the development review team has finished its review of the application. Notice of the hearing shall be provided in accordance with all applicable requirements of Chapter 18.05. The mailed notice required in Chapter 18.05 for this hearing shall also be mailed to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are to be located. In addition, the mailed and published notices shall state that the complete application can be reviewed by the public on the city's website or at current planning's office.
- E. Planning commission hearing procedures. The planning commission's public hearing shall be conducted as a quasi-judicial proceeding. Subject to the planning commission chairperson's discretion to limit the time and scope of testimony and to make allowances for the adequate presentation of evidence and the opportunity for rebuttal, the order of the hearing shall be as follows: (1) explanation and nature of application by current planning staff; (2) applicant's presentation of evidence and testimony in support of the application; (3) public comment and presentation of evidence; (4) applicant's rebuttal presentation; and (5) motion, discussion and vote by the planning commission on the application. No person making a presentation and providing testimony or comment at the hearing shall be subject to cross-examination. However, during the hearing members of the planning commission and the city attorney may make inquiries for the purposes of eliciting new information and to clarify information presented.
- F. Planning commission decision. The planning commission shall consider the application based solely on the testimony and evidence submitted at the hearing, the applicable provisions of this chapter and any other applicable provisions of this Code. At the conclusion of the presentation of testimony and evidence, the planning commission shall vote to grant, grant with conditions or deny the oil and gas permit requested in the application under consideration. A condition may only be imposed on the grant of an oil and gas permit if the applicant agrees to that condition on the record of the hearing. An applicant's refusal to agree to any such condition shall not be used by the planning commission as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter. In granting, granting with conditions or denying an application for an oil and gas permit, the planning commission shall adopt its written findings and conclusions within thirty days of its decision at the hearing.
- G. Appeal of planning commission decision. The planning commission's decision described in Subsection F. of this section may be appealed to council by the applicant and any "party in interest" as defined in Section 18.80.020. The written notice of appeal shall be filed with current planning within ten days of the effective date of the planning commission's final decision, which date shall be the date the planning commission adopts its written findings and conclusions. The appeal shall be filed and conducted in accordance with the applicable provisions in Chapter 18.80 for appeals from the planning commission to council. The council's decision in the appeal hearing to grant, grant with conditions or deny the applicant's request for an oil and gas permit shall, like the planning commission's decision, be based on the applicable provisions of this chapter and any other applicable provisions of this Code. The council shall also not impose any condition on its grant of the oil and gas permit unless the applicant agrees to the condition on the record of the council's appeal hearing. An applicant's refusal to agree to any such condition shall

not be used by council to deny the permit unless the condition is expressly required by this chapter.

18.77.050 Administrative review process.

- A. Applicant's election to use administrative review process. As an alternative to processing an application using the planning commission review process set out in Section 18.77.045, an applicant may elect to use the expedited and enhanced administrative review process set out in this section. In electing to use this administrative review process, the applicant must acknowledge and agree in its application to all of the following: (1) that by using this administrative review process to obtain an expedited review, the applicant's application will not only be subject to the baseline standards in Section 18.77.060, but also the enhanced standards in Section 18.77.065, which enhanced standards might be interpreted to be in operational conflict in one or more respects with the COG regulations; (2) that to the extent the enhanced or negotiated standards imposed through this administrative review process are not already included as conditions in the applicant's COG permit, the applicant will request the commission to add such enhanced standards as additional conditions to the applicant's COG permit; and (3) that if for any reason the applicant wishes to revoke its election to use this administrative review process or to withdraw from the process once started, but still desires an oil and gas permit under this chapter, it will be required to follow and meet all of the requirements of the planning commission review process.
- B. Application completeness review. An application reviewed under this section shall be reviewed by the director for completeness using the same process used in the planning commission review process as set out in Section 18.77.045A.
- C. Development review team. After an application is filed with current planning and determined by the director to be a complete application, it shall be reviewed by the development review team. The development review team shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this Code. As part of this review, the development review team may meet with the applicant or the applicant's representatives to discuss the application and to present the development review team's questions, concerns and recommendations. Within thirty days after the application has been determined by the director to be a complete application, the development review team shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty days of the issuance of the development review team's report, the applicant may supplement its application in response to the development review team report.
- D. Neighborhood meeting. The neighborhood meeting for an application reviewed under this section shall be scheduled, noticed and conducted or waived in the same manner as under the planning commission review process set out in Section 18.77.045C., but with one addition. The notices mailed under Section 18.77.045C. shall state that the application is being reviewed under the administrative review process and notify the recipients of the notice that they will have until fifteen days after the neighborhood meeting is held or after such other date set by the director if the neighborhood meeting is waived by the director as provided in Section 18.77.045C. in which to submit to current planning for the director's consideration any comments and information, in written, electronic or photographic form, related to the subject application as provided in Subsection E. of this section.
- E. Public comment. Within fifteen days after the neighborhood meeting is held or after such other date set by the director if the neighborhood meeting is waived by the director as provided in Section 18.77.045C., any person may file with current planning for the director's consideration

and to be included in any record on appeal taken under Subsection H. of this section, any comments and information, in written, electronic or photographic form, relevant to the director's consideration of the subject application under this section. The current planning division shall preserve all of the comments and information received under this section to ensure that they are included in any record of appeal. These comments and information shall also be made available for review by the applicant. The applicant may supplement its application in response or rebuttal to the comments and information submitted by the public. The applicant must file this supplemental information with current planning within fifteen days after the deadline for the public's submittal of its comments and information. Any comments and information received by current planning after the deadlines set forth herein, shall not be considered by the director in his or her decision and shall not be included in the record of any appeal under Subsection H. of this section.

- F. Director's negotiations with applicant. After receiving the development review team report and all of the public comments and information provided under Subsection E. of this section, the director shall negotiate with the applicant for standards to be added as conditions to the oil and gas permit in addition to or in substitution of those baseline standards required in Section 18.77.060 and the enhanced standards in Section 18.77.065, if in the director's judgment such conditions will result in the increased protection of the public's health, safety or welfare or further minimize adverse impacts to surrounding land uses, the environment or wildlife resources. The director shall have ten days after the last of the public comments and information have been submitted under Subsection E. of this section in which to conduct those negotiations. If after those negotiations the applicant agrees in writing to these new standards, they shall be added as conditions to the oil and gas permit if the permit is granted by the director. If the applicant does not agree to these conditions, they shall not be added as conditions to any granted oil and gas permit. In addition, the applicant's refusal to agree to any such conditions shall not be used by the director as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter.
- G. Director's decision. Within fifteen days after the expiration of the negotiation period in Subsection F. of this section, the director shall issue his or her written findings and conclusion, granting, granting with conditions to the extent agreed by the applicant under Subsection F. of this section or denying the applicant's requested oil and gas permit. The director's written decision shall be mailed to the applicant and to all persons required in Subsection D. of this section to be mailed written notice of the neighborhood meeting. The record which the director must consider in issuing his or her written findings and conclusions shall consist solely of the application, the applicant's supplementals to the application, the development review team report and the public comments and information submitted under Subsection E. of this section. This record shall be used by the director to then determine the application's compliance or noncompliance with the applicable provisions of this chapter and any other applicable provisions in this Code.
- H. Appeal of director's decision. The director's decision as set out in his or her written findings and conclusions shall constitute the director's final decision. The director's final decision is not appealable to the planning commission or council. The director's final decision may only be appealed to the district court for Larimer County under Rule 106(a)(4) of the Colorado Rules of Civil Procedure by the applicant, by anyone required in Subsection D. of this section to be mailed written notice of the neighborhood meeting, and by any other person or persons considered a "party in interest," under Section 18.80.020. The record to be considered in the appeal shall consist of the director's written findings and conclusion, the application, the applicant's supplementals to the application, the development review team report, all comments

and information provided by the public under Subsection E. of this section and any other evidentiary information the district court orders to be included in the record.

18.77.055 Baseline standards for planning commission review process.

All applications considered in the planning commission review process and all oil and gas operations approved under this process shall be subject to and comply with the setback and mitigation requirements set forth in COG rule 604, as amended, in addition to the standards and requirements in Section 18.77.060.

18.77.060 Baseline standards for planning commission and administrative review processes.

All applications considered in the planning commission review process and the administrative review process and all oil and gas operations approved under either process shall be subject to and comply with the following standards and requirements, as applicable:

- A. COG regulations for setback requirements. All oil and gas operations shall comply with COG Rule 603, as amended.
- B. COG regulations for groundwater baseline sampling and monitoring. All permits for oil and gas operations shall comply with COG Rule 318.A.e, as amended.
- C. COG regulations for protection of wildlife resources. All permits for oil and gas operations shall comply with COG Rule series 1200, as amended. The operator shall notify the director if consultation with Colorado Division of Parks and Wildlife is required pursuant to COG Rule 306.c.
- D. COG regulations for reclamation. All permits for oil and gas operations shall comply with COG Rule Series 1000, as amended. The operator shall provide copies of the commission's drill site reclamation notice to the director at the same time as it is provided to the surface owner.
- E. COG regulations for well abandonment.
 1. All oil and gas facilities shall comply with the requirement for well abandonment set forth in COG Rule 319, as amended. The operator shall provide a copy of the approval granted by the commission for the abandonment to the director within thirty days from receiving such approval.
 2. The operator shall provide copies of the commission's plugging and abandonment report to the director at the same time as it is provided to the commission.
 3. The operator shall notify the Loveland Fire Rescue Authority not less than two hours prior to commencing plugging operations.
- F. Applications and permits. Copies of all county, state and federal applications and permits that are required for the oil and gas operation shall be provided to the director.
- G. Burning of trash. No burning of trash shall occur on the site of any oil and gas operations.
- H. Chains. Traction chains on heavy equipment shall be removed before entering a city street.
- I. COG regulations for hydraulic fracturing chemical disclosure. All operators shall comply with COG Rule 205.A, as amended. Each operator shall also provide to the Loveland Fire Rescue Authority in hard copy or electronic format the operator's chemical disclosure form that the operator has filed with the chemical disclosure registry under COG Rule 205.A. Such form shall be filed with the director within five days after the form is filed in the chemical disclosure registry.
- J. Color. Oil and gas facilities, once development of the site is complete, shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.

- K. Cultural and historic resources standards. The installation and operation of any oil and gas facility shall not cause significant degradation of cultural or historic resources, of sites eligible as City Landmarks, or the State or National Historic Register, as outlined in Section 15.56.030.
- L. Stormwater quality and dust control. All permits for oil and gas operations shall comply with COG rule 805, as amended, plus Chapter 13.20.
- M. Electric equipment. The use of electric-powered equipment during production operations shall be required if a provider of electric power agrees at the provider's customary rates, fees and charges to provide electric service to an oil and gas facility and the cost to make the electrical connection is economically practicable. If available, electric service to the oil and gas facility shall be acquired by the operator within the shortest time period reasonably practicable. Temporary use of natural gas or diesel generators may be used until electric service is provided. Electric equipment shall not be required during drilling and well completion operations.
- N. Emergency response standards.
 - 1. In General. Operators agree to take all reasonable measures to assure that oil and gas operations shall not cause an unreasonable risk of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, hazardous material vehicle accidents or spills.
 - 2. Emergency Preparedness Plan. Each operator with an operation in the city is required to provide to the City its emergency preparedness plan for operations within the City, which shall be in compliance with the applicable provisions of the International Fire Code as adopted in the City Code. The plan shall be filed with the Loveland Fire Rescue Authority and updated on an annual basis. The emergency preparedness plan shall contain at least all of the following information:
 - a. The designation of the operator's office group or individual(s) responsible for emergency field operations. An office group or individual(s) designated to handle first response situations, emergency field operations or on-scene incident commands will meet this requirement. A phone number and address of such office group or individual(s) operation shall be required.
 - b. A map identifying the location of pipelines, isolation valves and/or a plot plan, sufficient in detail to enable the Loveland Fire Rescue Authority to respond to potential emergencies. The information concerning pipelines and isolation valves shall be kept confidential by the Loveland Fire Rescue Authority, and shall only be disclosed in the event of an emergency or as otherwise required by law.
 - c. A provision that any spill outside of the containment area that has the potential to leave the facility or to threaten waters of the state and that is required to be reported to the commission or the commission's director shall be immediately reported to the Loveland Fire Rescue Authority emergency dispatch at 911 and to the director promptly thereafter.
 - d. Access or evacuation routes and health care facilities anticipated to be used in the case of an emergency.
 - e. A project-specific emergency preparedness plan for any operation that involves drilling or penetrating through known zones of hydrogen sulfide gas.
 - f. A provision obligating the operator to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency caused by oil and gas operations and not promptly handled by the operator or its agents.
 - g. Detailed information showing that the applicant has adequate personnel, supplies and funding to implement the emergency response plan immediately at all times during construction and operations.
- O. Noise mitigation. All permits for oil and gas operations shall comply with COG Rule 802, as amended, plus the following:

1. The exhaust from all engines, coolers and other mechanized equipment shall be vented up and in a direction away from the closest existing residences.
 2. Additional noise mitigation may be required based on specific site characteristics, including, but not limit to, the following:
 - a. Nature and proximity of adjacent development;
 - b. Prevailing weather patterns, including wind direction;
 - c. Vegetative cover on or adjacent to the site; and
 - d. Topography.
 3. The level of required noise mitigation may increase with the proximity of the well and well site to existing residences and platted subdivision lots, and the level of noise emitted by the well site. To the extent feasible and not inconsistent with its operations, operator may be required to use one (1) or more of the following additional noise mitigation measures to mitigate noise impacts:
 - a. Acoustically insulated housing or cover enclosures on motors, engines and compressors;
 - b. Vegetative screens consisting of trees and shrubs;
 - c. Solid wall or fence of acoustically insulating material surrounding all or part of the facility;
 - d. Noise mitigation plan identifying and limiting hours of maximum noise emissions, type, and frequency, and level of noise to be emitted and proposed mitigation measures; and
 - e. Lowering the level of pumps or tank batteries.
- P. Fencing. After the drilling, well completion and interim reclamation operations are completed, the operator shall install permanent perimeter fencing six (6) feet in height around the entire perimeter of the production operations site, including gates at all access points. Such gates shall be locked when employees of the operators are not present on the site. Such fencing and gates shall be solid, opaque and consist of masonry, stucco, steel or other similar materials. The director may allow chain link fencing if solid and opaque fencing creates a threat to public safety or interferes with emergency or operations access to the production site.
- Q. Flammable material. All land within twenty five feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.
- R. Land disturbance standards. The following mitigation measures shall be used to achieve compatibility and reduce land use impacts:
1. Pad dimensions for a well shall be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
 2. Oil and gas operations shall use structures and surface equipment of the minimal size necessary to satisfy present and future operational needs.
 3. Oil and gas operations shall be located in a manner that minimizes the amount of cut and fill.
 4. To the maximum extent feasible, oil and gas operations shall use and share existing infrastructure, minimize the installation of new facilities and avoid additional disturbance to lands in a manner that reduces the introduction of significant new land use impacts to the environment, landowners and natural resources.
 5. Landscaping plans shall include drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area. The operator shall submit to the city a temporary irrigation plan and implement said plan, once approved by the city, for the first two years after the plant material has been planted. If it is practicable to provide a permanent irrigation system, the operator shall submit an irrigation plan for permanent watering and the operator shall provide a performance guarantee for such landscaping that is acceptable to the director. Produced water may not be used for landscaping purposes.

6. The application shall include an analysis of the existing vegetation on the site to establish a baseline for re-vegetation upon temporary or final reclamation or abandonment of the operations. The analysis shall include a written description of the species, character and density of existing vegetation on the site and a summary of the potential impacts to vegetation as a result of the proposed operations. The application shall include any commission-required interim and final reclamation procedures and any measures developed from a consultation with current planning regarding site specific re-vegetation plan recommendations.
- S. Landscaping. When an oil and gas operation site is less than one hundred feet from a public street, a Type D Bufferyard shall be required between the oil and gas operation and the public street in accordance with the City of Loveland Site Development Performance Standards and Guidelines as adopted in Chapter 18.47.
- T. Lighting. All permits for oil and gas operations shall comply with COG Rule 803, as amended, plus the following:
 1. Except during drilling, completion or other operational activities requiring additional lighting, down-lighting shall be required, meaning that all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture; and
 2. A lighting plan shall be developed to establish compliance with this provision. The lighting plan shall indicate the location of all outdoor lighting on the site and on any structures, and include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures.
- U. Maintenance of machinery. Routine field maintenance of vehicles and mobile machinery shall not be performed within three hundred feet of any water body.
- V. Mud tracking. An operator shall take all practical measures to ensure that the operator's vehicles do not track mud or leave debris on city streets. Any such mud or debris left on city streets by an operator's operation shall be promptly cleaned up by the operator.
- W. Reclamation plan. The application shall include any interim and final reclamation requirements required by the COG regulations.
- X. Recordation of flowlines. The legal description of all flowlines, including transmission and gathering systems, shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty days of completion of construction. Abandonment of any flowlines shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty days after abandonment.
- Y. Removal of debris. When oil and gas operations become operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation. Materials shall not be buried on-site.
- Z. Removal of equipment. All equipment used for drilling, re-drilling, maintenance and other oil and gas operations shall be removed from the site within thirty days of completion of the work. Permanent storage of equipment on well pad sites shall be prohibited.
- AA. Signs. A sign permit shall be obtained for all signs at the oil and gas facility or otherwise associated with the oil and gas operations in accordance with Chapter 18.50 except such permit shall not be required for those signs required by the COG regulations or this chapter.
- BB. Spills. Chemical spills and releases shall be reported in accordance with applicable state and federal laws, including, without limitation, the COG regulations, the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response Compensation and Liability Act, the Oil and Pollution Act, and the Clean Water Act, as applicable. If a spill or release impacts or threatens to impact a water well, the operator shall comply with existing COG regulations concerning reporting and notification of spills, and the spill or release shall

also be reported to the director within twenty-four (24) hours of the operator becoming aware of the spill or release.

- CC. Temporary access roads. Temporary access roads associated with oil and gas operations shall be reclaimed and re-vegetated to the original state in accordance with COG Rule Series 1000.
- DD. Development standards for street, electric, water/wastewater, and stormwater infrastructure. All permits for oil and gas operations shall comply with the development standards for street, electric, water/wastewater and stormwater infrastructure set forth in Chapter 16.24.
- EE. Transportation and circulation. All applicants shall include descriptions of all proposed access routes for equipment, water, sand, waste fluids, waste solids, mixed waste and all other material to be hauled on the city's streets. The submittal shall also include the estimated weights of vehicles when loaded, a description of the vehicles, including the number of wheels and axles of such vehicles, and any other information required by the city engineer. In addition to any other bonding or indemnification requirements of the city as may be reasonably imposed, all applicants shall provide the city with a policy of insurance in an amount determined by the city engineer to be sufficient to protect the city against any damages that may occur to the city's streets, roads or rights-of-way as a result of any weight stresses or spillage of hauled materials including, without limitation, water, sand, waste fluids, waste solids and mixed wastes.
- FF. Water supply. The operator shall identify on the site plan its primary source(s) for water used in both the drilling and well completion phases of operation. In addition, if requested by the city's water and power department director, the applicant's source(s) and amounts of water used in the city shall be documented and a record of it shall be provided to the city. The disposal of water used on site shall also be reported to the water and power department director if requested to include the operator's anticipated haul routes and the approximate number of vehicles needed to supply and dispose of the water. When operationally feasible, the operator shall minimize adverse impacts caused by the delivery of water to the operation site by truck. If available and commercially viable, the operator shall make a service line connection to a domestic water supplier who is willing to provide such water at the same rates, fees and charges and provided that the amount of the water that can be supplied by that provider can be done so without delay or negative impact to the operator's drilling and well completion operations. When operationally feasible, the operator may alternatively purchase non-potable water from any other sources and transfer that water through ditches or other waterways and/or through above or below ground lines.
- GG. Weed control. The applicant shall be responsible for ongoing weed control at oil and gas operations sites, pipelines and along access roads during construction and operations, until abandonment and final reclamation is completed pursuant to commission rules. Control of weeds shall comply with the standards in Chapter 7.18.
- HH. Well abandonment. The operator shall comply with the COG regulations regarding well abandonment. Upon plugging and abandonment of a well, the operator shall provide the director with surveyed coordinates of the abandoned well and shall leave onsite a physical marker of the well location.
- II. Federal and state regulations. The operator shall comply with all applicable federal and state regulations including, without limitation, the OGC act and the COG regulations.
- JJ. Building permits. A building permit shall be obtained for all structures as required by the International Fire Code and/or International Building Code as adopted in the City Code.
- KK. Floodplains. All surface oil and gas operations within the city's floodway and flood fringe districts, as these districts are defined and established in Chapter 18.45, shall be conducted, to the extent allowed under COG regulations, in accordance with all applicable COG regulations, including, without limitation, COG Rules 603.k. and 1204. In addition, if the operator's oil and

gas operations will involve any development or structures regulated under the city's Floodplain Building Code in Chapter 15.14, the operator shall also obtain a floodplain development permit before beginning such regulated operations.

- LL. Trash and recycling enclosures. All applications for oil and gas operations shall comply with the requirements contained in Chapter 7.16, to the maximum extent feasible.
- MM. Representations. The approved project development plan shall be subject to all conditions and commitments of record, including verbal representations made by the applicant on the record of any hearing or review process and in the application file, including without limitation compliance with all approved mitigation plans.
- NN. Seismic operations. The operator shall provide at least a fifteen day advance notice to the director and the Loveland Rural Fire Authority whenever seismic activity will be conducted within the city.
- OO. Access roads. All private roads used to access the tank battery or the wellhead shall, at a minimum, be:
 - 1. A graded gravel roadway at least twenty feet wide with a minimum unobstructed overhead clearance of thirteen feet six inches, having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures approved by the city engineer. The aggregate material, at a minimum, shall meet the requirements for a Class 6, Aggregate Base Course as specified in the Colorado Department of Highways Standard Specifications for Road and Bridge Construction, latest edition.
 - 2. Grades shall be established so as to provide drainage from the roadway surface and shall be constructed to allow for cross-drainage to waterway (i.e. roadside swells, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of culvert pipes shall be subject to approval by the city engineer.
- PP. Visual impacts.
 - 1. To the maximum extent practicable, oil and gas facilities shall be:
 - a. Located away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings, and other landmarks;
 - b. Located to avoid crossing hills or ridges;
 - c. Located to avoid the removal of trees; and
 - d. Located at the base of slopes to provide a background of topography and/or natural cover.
 - 2. Access roads shall be aligned to follow existing grades and minimize cuts and fills.
 - 3. One (1) or more of the landscaping practices may be required on a site specific bases:
 - a. Establishment and proper maintenance of adequate ground cover, shrubs and trees;
 - b. Shaping cuts and fills to appear as natural forms;
 - c. Cutting rock areas to create irregular forms; and
 - d. Designing the facility to utilize natural screens.
- QQ. COG regulations for odor. All oil and gas operations shall comply with COG Rule 805.
- RR. COG regulations for abandonment of pipelines. Any pipelines abandoned in place shall comply with COG Rule 1103 and the operator's notice to the commission of such abandonment shall be promptly filed thereafter by the applicant with the director.
- SS. Temporary Housing. Temporary housing shall be prohibited on any oil and gas operations site, including, without limitation, trailers, modular homes and recreational vehicles, except for the temporary housing customarily provided and required during twenty-four hour drilling, well completion and flowback operations.

18.77.065 Enhanced standards for administrative review process.

All applications considered in the administrative review process and all oil and gas operations approved under this process shall be subject to and comply with the following standards and requirements, as applicable, in addition to the standards and requirements in Section 18.77.060.

The operator shall designate these standards and requirements, to the extent applicable, as agreed upon best management practices on any application the operator files with the commission.

- A. Setbacks. All oil and gas facilities shall comply with the setback distances set forth in Table A below or such greater distances as may be required by the commission. Setback distances shall be measured from the closest edge of any equipment included in the definition of oil and gas facility in Section 18.77.025 to the nearest part of the nearest feature associated with the sensitive area as described in Column C in Table A. For the purpose of measuring the setback from any sensitive area that does not have a defined property or boundary line, the director shall establish the boundary line for measurement purposes.

Table A – Setbacks for oil and gas facilities

Column A	Column B	Column C
Sensitive Area	Setback Distance (ft.)	Setback to be measured to the following nearest feature of sensitive area:
Building	500	Wall or corner of the building
Public road, major above-ground utility facility, or railroad tracks	200	Right-of-way or easement property line
Property on which the oil and gas facility is located	200	Property line
Lease area on which the oil and gas facility is located	200	Property line
Natural area or wetland	500	Property line
Property managed by the city's parks and recreation department, any city park, or property subject to a conservation easement managed by a public or non-profit entity	500	Property line of property or easement
Surface water body	500	Operating high-water line
FEMA floodway zoning district	500	Boundary line as shown by the Flood Insurance Rate Map (FIRM) revised to reflect a Letter of Map Revision effective May 24, 2010, published by the FEMA
Domestic or commercial water well	500	Center of wellhead
Outdoor assembly area	1,000	Property line
High occupancy building	1,000	Wall or corner of the building

Once the setbacks for a well permitted under the administrative review process have been approved and established, the director shall submit to the commission a site plan showing the exact location of those setbacks for the permitted well.

- B. Commission mitigation regulations. All oil and gas operations shall comply with the mitigation measures required under Commission Rule 604.c, as amended.
- C. Bufferyards. The bufferyards set forth in Table B below, shall be established once the well is in production around the entire perimeter of the oil and gas production site, excluding vehicular access points, and maintained until the site has been restored in accordance with the final reclamation plan approved by the city and the commission. Bufferyards shall not be required during drilling and well completion operations. The use of xeriscape plant types shall be used unless a permanent irrigation system is provided by the operator. A temporary irrigation system shall be provided, maintained and operated for xeriscape plant types for a period of two years from planting.

Table B - Bufferyards			
Base Standard (plants per 100 linear feet)	Optional Width (feet)	Plant Multiplier	Option: add 6 foot opaque masonry wall
5 canopy trees	150	1.00	.85
6 evergreen trees	170	0.90	
4 large shrubs	190	0.80	
	210	0.70	
	230	0.60	
	250	0.50	

- D. Air quality standards. Air emissions from oil and gas facilities shall be in compliance with the permit and control provisions of the Environmental Protection Agency, Air Quality Control Commission and Colorado Oil and Gas Conservation Commission. In addition, the operator of the oil and gas facility agrees to employ the following enhanced standards for air quality mitigation.
 - 1. General duty to minimize emissions. All continuously operated equipment, including but not limited to, storage vessels and dehydrators shall route vapors to a capture and control device with at least a ninety-eight percent destruction efficiency. Operators shall submit to the director test data of like equipment or manufacturer's data demonstrating the control device can meet the destruction efficiency. Any combustion device, auto ignition system, recorder, vapor recovery device or other equipment used to meet the destruction efficiency shall be installed, calibrated, operated and maintained in accordance with the manufacturer's recommendations, instruction and operating manuals.
 - 2. Combustion devices. All flares shall be designed and operated as follows:
 - a. The combustion devices shall be designed and operated in a matter that will ensure it complies with 40 Code of Federal Regulations ("CFR") § 60.18 (General control device and work practice requirements);
 - b. The combustion device, during production operations, shall be operated with a pilot flame present at all times vapors may be routed to it. Presence of a pilot flame shall be continuously monitored and recorded; and
 - c. Combustion devices shall be equipped with automatic flame ignition systems in the event the pilot flame is extinguished.

3. Fugitive emissions. The operator shall develop and follow a leak detection and repair plan to minimize emissions from fugitive components. The plan will be submitted to the director for incorporation into the permit.
4. Pneumatic controllers. The operator shall use only no- or low-bleed pneumatic controllers, where such controllers are available for the proposed application. High-bleed pneumatic controllers may be used where air is the motive gas for operation of the controller and valve.
5. Well completion practices. For each well completion operation, the operator shall minimize emissions from the operation as set forth below:
 - a. For the duration of flowback, route the recovered gas to the sales pipeline once the well has enough gas to safely operate the separator, or like device, and liquid control valves;
 - b. If flow and gathering lines are not available to comply with Subsection (a) above, the operator shall capture the recovered gas to a completion combustion device, equipped with a continuous ignition system, to oxidize the recovered gas stream except in conditions that may result in a fire hazard or explosion, or where high heat emissions from the completion device may negatively impact a sensitive area or nearby structure;
 - c. Operators shall have a general duty to safely maximize resource recovery and minimize releases to the atmosphere during flowback; and
 - d. Operators shall maintain a log for each well completion operation. The log shall be completed in accordance with the methods outlined in the Environmental Protection Agency's Code of Federal Regulations, specifically 40 CFR Part 60, Subpart OOOO.
6. Well maintenance and blowdowns. The operator shall utilize best management practices during well maintenance and blowdowns to minimize or eliminate venting emissions.
7. Capture of produced gas from wells. Gas produced during normal production shall be captured, to the maximum extent feasible, and not flared or vented, except in situations where flaring or venting is required to ensure that associated natural gas can be safely disposed of in emergency shutdown situations.
8. Rod-packing maintenance. Operators shall replace rod-packing from reciprocating compressors located at facilities approved after April 15, 2013, every twenty-six thousand hours of operation or thirty-six months, whichever occurs first.
9. Monitoring compliance and reporting. Operators shall submit to the director an annual report providing the following information concerning the operator's oil and gas operations as related to air emissions:
 - a. Dates when the operator or its agent inspected its oil and gas facilities under its leak detection and repair plan;
 - b. A record of the expected and actual air emissions measured at the facilities;
 - c. The operator's emissions data collected during well completion activities;
 - d. Dates and duration when operator conducted well maintenance activities to minimize air emissions;
 - e. If venting occurred at any time during the reporting period, an explanation as to why best management practices could not have been used to prevent such venting; and
 - f. Dates when reciprocating compressor rod-packing is replaced.
- E. Pipelines. Any newly constructed or substantially modified pipelines on site shall meet the following requirements:
 1. Flowlines, gathering lines and transmission lines shall be sited at a minimum of fifty feet away from residential and non-residential buildings, as well as the high-water mark of any surface water body. This distance shall be measured from the nearest edge of the pipeline. Pipelines and gathering lines that pass within one hundred fifty feet of residential or non-residential building or the high water mark of any surface water body shall incorporate leak detection, secondary containment or other mitigation, as appropriate;

2. To the maximum extent feasible, pipelines shall be aligned with established roads in order to minimize surface impacts and reduce habitat fragmentation and disturbance;
 3. To the maximum extent feasible, operators shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts; and
 4. Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank and riparian areas.
- F. Sound Limitations. All oil and gas facilities shall comply with the sound limitation standards set forth in Chapter 7.32 after development of the well is complete, meaning while the well is in production. A noise mitigation study shall be submitted with the application to demonstrate compliance with said code chapter. If necessary to comply with said chapter, a noise screen shall be constructed along the edge of the oil and gas facility between the facility and existing residential development or land zoned for future residential development.

18.77.070 Application requirements.

All applications submitted to current planning shall contain the information required for a COG permit and any additional information required by the city's "Oil and Gas Development Application Submittal Checklist" approved by the city manager.

18.77.075 Variances.

- A. Variance Request. In both the planning commission review and administrative review processes, an applicant may request a variance from any provision of this chapter. A request for a variance under this section may be included in the applicant's application and shall be processed, reviewed and granted, granted with conditions or denied in accordance with and as part of the planning commission review process or the administrative review process, as applicable. The variance provisions of Chapter 18.60 shall not be applicable to a variance request under this chapter.
- B. Grounds for Variance. A variance from the application of any provision in this chapter shall be granted on the basis of one or more of the following grounds:
1. The provision is in operational conflict with the OGC act or the COG regulations, meaning the application of the provision would have the effect of materially impeding or destroying a state interest as expressed in the COG act or the COG regulations.
 2. There is no technology commercially available at a reasonable cost to conduct the proposed oil and gas operations in compliance with the provision and granting a variance from the operation of the provision will not have an adverse effect on the public health, safety or welfare or on the environment.
 3. Protection of the public health, safety and welfare and of the environment would be enhanced by an alternative approach not contemplated by the provision.
 4. Application of the provision will constitute a regulatory taking of property without just compensation by the city under Article II, Section 3 of the Colorado Constitution.
 5. Application of the provision is impractical or would create an undue or unnecessary hardship because of unique physical circumstances or conditions existing on or near the site of the oil and gas operations, which may include, without limitation, topographical conditions, shape or dimension of the operation site, inadequate public infrastructure to the site, or close proximity of occupied buildings.

18.77.080 Transfer of permits.

Oil and gas permits may be assigned to another operator only with the prior written consent of the director and upon a showing to the director that the new operator can and will comply with all

conditions of the transferred permit and with all of the applicable provisions of this chapter. The existing operator shall assign the permit to the new operator on a form provided by the city and the new operator shall also sign the form agreeing to comply with all of the conditions of the permit and all applicable provisions of this chapter.

18.77.082 Expiration of permits.

An oil and gas permit issued under this chapter shall expire and be null and void if drilling operations on the permitted well are not commenced within two years after the date the permit is issued, unless before the expiration date the applicant requests in writing and the director approves an extension of such permit not to exceed one year. To approve any such extension, the director must find that the applicant has an existing and valid permit from the commission for the subject oil and gas operations and that the proposed oil and gas operations approved under the city's permit continue to be in substantial compliance with the city's permit and the applicable provisions of this chapter.

18.77.085 Other applicable code provisions.

In addition to the provisions of this chapter, all oil and gas operations conducted within the city shall comply with all applicable provisions of the following chapters: 3.16, Sales and Use Tax; 7.12, Nuisances - Unsanitary Conditions; 7.16, Solid Waste Collection and Recycling; 7.18, Weed Control; 7.26, Accumulations of Waste Materials; 7.30, Graffiti; 7.36, Fire Protection; 10.04, Traffic Regulations; 10.20, Parking; 12.16, Use of City Rights-of-Way; 12.28, Prohibited Uses of Streets and Other Public Places; 13.18, Stormwater Management; 13.20, Stormwater Quality; 15.08, Building Code; 15.12, Property Maintenance Code; 15.14, Floodplain Building Code; 15.16, Mechanical Code; 15.24, Electrical Code; 15.28, Fire Code; 16.38, Capital Expansion Fees; 16.41, Adequate Community Facilities; 16.42, Street Maintenance Fee; 18.45, Floodplain Regulations; 18.50, Signs; 13.04, Water Service; 13.06, Cross Connection Control; and 19.06, Irrigation.

18.77.090 Emergency response costs.

The operator shall reimburse the Loveland Fire Rescue Authority for any emergency response costs incurred by the Authority in connection with fire, explosion or hazardous materials at the well or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by mistake of the Authority or in response to solely a medical emergency.

18.77.095 Application and inspection fees.

Council may establish by resolution fees to be collected at the time an application is filed with current planning for the city's reasonable costs in processing applications under this chapter and for fees thereafter imposed for the city's reasonable costs to conduct inspections to ensure compliance with this chapter. Fees established for inspections shall be nondiscriminatory to only cover the city's reasonable costs to inspect and monitor for road damage and for compliance with the city's fire codes, building codes and the conditions of any permit issued under this chapter. However, such inspection fees shall not be based on any costs the city might incur to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order or permit condition administered by the commission.

18.77.100 Capital expansion fees.

Oil and gas operations within the city shall be subject to the capital expansion fees established under Chapter 18.38. Council may adopt and set such fees by resolution. Any such fees adopted, shall be paid by the operator to the city at the time of issuance of an oil and gas permit under this chapter.

18.77.105 Reimbursement for consultant costs.

If the city contracts with an outside consultant to review and advise the city concerning any applicant's application or in connection with any applicant's hearing conducted under this chapter, the applicant shall reimburse the city for the city's reasonable costs incurred with that consultant. No permit shall be issued and no suspended permit shall be reinstated until the applicant reimburses the city in full for any such costs.

18.77.110 Adequate transportation facilities.

All applications submitted and all permits issued under this chapter shall be subject to all of the applicable adequate community facilities requirements of Chapter 16.41 as they relate solely to the transportation facilities required in Section 16.41.110.

18.77.115 Insurance and performance security.

- A. Insurance. Every operator granted a permit under this chapter shall procure and maintain throughout the duration of the operator's oil and gas operations a policy of comprehensive general liability insurance, or a self-insurance program approved by the Colorado Insurance Commission, insuring the operator and naming the city as an additional insured, against any liability for personal injury, bodily injury or death arising out of the operator's permitted operations, with coverage of at least one million dollars per occurrence. Unless the operator is self-insured, insurance required by this Subsection A. shall be with companies qualified to do business in the State of Colorado and may provide for a deductible as the operator deems reasonable, but in no event greater than ten thousand dollars. The operator shall be responsible for payment of any deductible. No such policy shall be subject to cancellation or reduction in coverage limits or other modification except after thirty days prior written notice to the city. The operator shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal the operator changes to "occurrence," the operator shall carry a twelve month tail. The operator shall not do or permit to be done anything that shall invalidate the policies. In addition, the insurance required by this Subsection A. shall cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, disbursal, seepage, migration, release or escape of pollutants, and shall not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise. Further, the policies required by this Subsection A. shall be deemed to be for the mutual and joint benefit and protection of the operator and the city and shall provide that although the city is named as additional insured, the city shall nevertheless be entitled to recover under said policies for any loss occasioned to the city or its officers, employees or agents by reason of negligence of the operator or of its officers, employees, agents, subcontractors or business invitees and such policies shall be written as primary policies not contributing to or in excess of any insurance coverage the city may carry. Prior to the issuance of the operator's permit, the operator shall furnish to the city certificates of insurance evidencing the insurance coverage required herein. In addition, the operator shall, upon request by the city and not less than thirty days prior to the expiration of any such insurance coverage, provide the city with a certificate of insurance evidencing either new or continuing coverage in accordance with the requirements of this section.
- B. Performance Security for Road Damage. Prior to the issuance of a permit to an applicant, the applicant shall provide the city with a twenty-five thousand dollar performance security for each well that is permitted while the well is in operation in the form of an irrevocable letter of credit or equivalent financial security acceptable to the director to cover the city's costs to repair any damages to the city's public rights-of-way caused by the operator's use of said rights-of-way. In the event this security is insufficient to cover the city's costs to repair any such damages, the operator shall be liable to the city for those additional costs and the city may pursue

a civil action against the operator to recover those costs as provided in Section 18.77.125.C. Reclamation and other activities and operations which fall under the COG regulations are exempted from this performance security coverage.

18.77.120 Inspections, right to enter, and enforcement.

- A. Inspections. All oil and gas operations and facilities may be inspected by the city's duly appointed inspectors at reasonable times to determine compliance with the applicable provisions of this chapter and all other applicable provisions in this Code. However, the city's inspections shall be limited to the inspection of those matters directly enforceable by the city under this Chapter 18.77 as provided in Subsection C. of this section. In the event an inspection is desired by the city relating to a matter not directly enforceable by the city under this chapter, the city shall contact the commission to request that it conduct the inspection and take appropriate enforcement action.
- B. Right to enter. Notwithstanding any other provision in this Code to the contrary, for the purpose of implementing and enforcing the provisions of this chapter and the other applicable provisions of this Code, the city's inspectors shall have the right to enter upon the private property of a permitted operator after reasonable notification to the operator's designated agent, in order to provide the operator with the opportunity to be present during such inspection. Such notice shall not be required in the event of an emergency that threatens the public's health or safety. By accepting an oil and gas permit under this chapter, the operator grants its consent to this right to enter.
- C. Enforcement. The city's enforcement of the provisions of this Chapter 18.77 and of the conditions included in permits issued under this chapter shall be limited to those provisions and conditions that are not in operational conflict with state law or COG regulations and that are enforced by the commission, except when the provision or condition is an enhanced standard imposed and agreed to by the applicant through the administrative review process or agreed to by the applicant in the planning commission review process.
- D. Designated agent. The applicant shall include in its application the telephone number and email address of its designated agent and at least one back-up designated agent who can be reached twenty-four hours a day, seven days a week for the purpose of being notified of any proposed city inspection under this section or in case of an emergency. The applicant shall notify the city in writing of any change in the primary or back-up designated agent or their contact information.

18.77.125 Violations, suspension and revocation of permits, civil actions and penalties.

- A. Violations. It shall be unlawful and a misdemeanor offense under this chapter for any person to do any of the following:
 - 1. Conduct any oil and gas operation within the city without a validly issued permit;
 - 2. Violate any enforceable condition of a permit; or
 - 3. Violate any applicable and enforceable provision of this chapter and code.
- B. Suspension and revocation. If at any time the director has reasonable grounds to believe than an operator is in violation of any enforceable provision of this chapter or code, the director may suspend the operator's permit. The director shall give the operator's designated agent written notice of the suspension and, upon receiving such notice, the operator shall immediately cease all operations under the permit, except those reasonably required to protect the public's health and safety. The director's written notice shall state with specificity the operator's violation(s). The suspension shall continue in effect until the director determines that the violation(s) has been satisfactorily corrected. At any time during the suspension, the operator may appeal the director's action to council by filing with the City Clerk a written notice of appeal stating with specificity the operator's grounds for appeal. Within thirty days of the City Clerk's receipt of that

notice, a public hearing shall be held before council. The hearing shall be conducted as a quasi-judicial proceeding with the operator having the burden of proof and with the director defending the suspension of the permit. After hearing and receiving evidence and testimony from the operator, from the director and from other city staff and consultants, and after receiving public comment, council may revoke the permit, terminate the suspension of the permit or take such other action as it deems appropriate under the circumstances taking into consideration and balancing the protection of the public's health, safety and welfare and the operator's rights under this chapter and state law to conduct its oil and gas operations. Within twenty five days after the hearing, the Council shall adopt its written findings and conclusion supporting its decision. The Council's written findings and conclusions shall constitute the Council's final decision that may be appealed to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

- C. Civil actions. In addition to any other legal remedies provided under this chapter to enforce violations of this chapter, the city may commence a civil action against an operator committing any such violations in any court of competent jurisdiction and request any remedy available under the law or in equity to enforce the provisions of this chapter, to collect any damages suffered by the city as the result of any violation and to recover any fees, reimbursements and other charges owed to the city under this chapter and code. If the city prevails in any such civil action, the operator shall be liable to the city for all of the city's reasonable attorney's fees, expert witness costs and all other costs incurred in that action.
- D. Penalties. A violation of any enforceable provision of this chapter shall constitute a misdemeanor offense punishable as provided in Section 1.12.010. A person committing such offense shall be guilty of a separate offense for each and every day, or a portion thereof, during which the offense is committed or continued to be permitted by such person, and shall be punished accordingly.

18.77.130 Conflicting provisions.

In the event of any conflict between any provision of this chapter and any other provision of this Code, the provision of this chapter shall control.

Chapter 18.78

OVERLAY ZONING DISTRICTS FOR DEVELOPMENT SETBACKS FROM EXISTING OIL AND GAS FACILITIES

Sections:

- 18.78.010 Purpose.**
- 18.78.020 Definitions.**
- 18.78.030 Establishment of zoning overlay districts.**
- 18.78.040 Applicability.**
- 18.78.050 Zoning overlay district boundaries.**
- 18.78.060 Land use restrictions within zoning overlay districts.**
- 18.78.080 Variances.**

18.78.010 Purpose.

The purpose of this chapter is to establish zoning overlay districts in the vicinity of existing oil and gas facilities in order to allow certain land uses within these zoning overlay districts that are compatible with the industrial nature of oil and gas facilities, but yet are protective of the public's health, safety and welfare. Nothing in this chapter is intended to regulate the location of an oil and gas facility, but only to regulate the use of land proposed to be developed for other uses and purposes.

18.78.020 Definitions.

The following words, terms and phases shall have the meanings set forth below, unless the context requires otherwise:

"Critical zone" shall mean all land and water surface area less than two hundred feet from an oil and gas facility, as measured in accordance with Section 18.78.050.

"High occupancy building zone" shall mean all land and water surface area five hundred feet or greater but one thousand feet or less from an oil and gas facility, as measured in accordance with Section 18.78.050.

"Oil and gas facility" shall have the meaning given to this term in Section 18.77.025 and shall include, without limitation, operating, shut-in and abandoned wells. However, it shall not include an abandoned well that has been demonstrated, to the satisfaction of the development services director, will not, as a matter of law, be reopened or reentered in the future for any type of oil and gas operation without the city's prior written consent.

"Restricted zone" shall mean all land and water surface area two hundred feet or greater but less than five hundred feet from an oil and gas facility, as measured in accordance with Section 18.78.050.

18.78.030 Establishment of zoning overlay districts.

There are hereby created and established in the city as zoning overlay districts the critical zone, the restricted zone, and the high occupancy building zone.

18.78.040 Applicability.

Notwithstanding the land uses allowed by the underlying zoning districts established in this title for any land located in the critical zone, restricted zone, or high occupancy building zone, development of such land shall be subject to and shall comply with the applicable zoning restrictions set forth in this chapter.

18.78.050 Zoning overlay district boundaries.

The boundaries of the zoning overlay districts established in Section 18.78.030 shall be measured from the closest edge of any oil and gas facility.

18.78.060 Land use restrictions within zoning overlay districts.

- A. In the critical zone land uses shall be limited to any of the following:
1. Essential underground public utility facilities; and
 2. Undeveloped and restricted open space designed and operated to discourage access and use by natural persons, but this shall not include “recreational open space” as defined in Chapter 18.04 and any of the uses allowed in the public park zoning district under Chapter 18.32, unless it is an open lands/natural area that is undeveloped and designed and operated to discourage access and use by natural persons.
- B. In the restricted zone land uses shall be limited to any of the following, provided no outdoor assembly area (as defined in Section 18.77.025.II), building, or parking lot is located within the restricted zone and the use is approved in accordance with the provisions in Chapter 18.40 for uses permitted by special review.
1. Airports and heliports;
 2. Attended recycling collection facility;
 3. Commercial mineral deposit;
 4. Composting facility;
 5. Contractor’s storage yard;
 6. Essential public utility uses, facilities, services and structures;
 7. Heavy industrial uses;
 8. Landfill area;
 9. Landscaping;
 10. Personal wireless service facilities;
 11. Plant nursery;
 12. Public service facility;
 13. Recyclable materials processing;
 14. Resource extraction, process and sales;
 15. Self-service storage facility;
 16. Street;
 17. Truck terminal;
 18. Unattended recycling collection facility;
 19. Vehicle rentals of heavy equipment, large trucks and trailers;
 20. Vehicle rentals of cars, light trucks and light equipment;
 21. Vehicle sales and leasing of cars and light trucks; and
 22. Vehicle sales and leasing of farm equipment, mobile homes, recreational vehicles, large trucks and boats with outdoor storage;
- These land uses shall be permitted if approved as a special review under this Subsection B. notwithstanding the fact that the underlying zoning or approved development plan governing the subject property may prohibit such approved land use.
- C. In the high occupancy building zone all land uses authorized for the affected land by the land’s underlying zoning district as provided in this title shall be allowed subject to the requirements of that zoning district, except that high occupancy buildings and outdoor assembly areas shall not be allowed within this zoning overlay district.

18.78.070 Variances.

- A. An owner of any real property subject to the requirements and limitations of this chapter may request a variance from those requirements and limitations using the variance procedures set out in Chapter 18.60. The grounds for such variance shall be those set out in Chapter 18.60 to the extent applicable. However, any variance approved under this subsection must be in compliance with the underlying zoning or approved development plan governing the subject property.

- B. An owner may also request a variance from any of the requirements of this chapter on the basis of the existence of a vested right under Chapter 18.72 or Colorado law or on the grounds that application of Chapter 18.78 would constitute a regulatory taking under Article II, Section 3 of the Colorado Constitution. A variance request under this subsection shall be made to council by filing with the city's current planning division a written variance request stating all the facts and law the owner is relying on for the variance. A quasi-judicial hearing before council to consider the variance request shall be scheduled and held not less than thirty days but not more than sixty days after filing of the owner's written variance request. Notice of the hearing shall be provided in accordance with all applicable requirements of Chapter 18.05. At the conclusion of the hearing, council may grant, grant with conditions, or deny the variance request. In so doing, council shall adopt its written findings and conclusions within thirty days of its decision at the hearing. However, any variance approved under this subsection must be in compliance with the underlying zoning or approved development plan governing the subject property. Council's decision may be appealed to the District Court for Larimer County under Rule 106(a)(4) of the Colorado Rules of Civil Procedure by the applicant, by any person receiving mailed notice of the hearing, or by any other person considered a "party in interest" under Section 18.80.020.

Chapter 18.80

APPEALS

Sections:

18.80.010	Purpose.
18.80.020	Definitions.
18.80.030	Appeal of final decision permitted -- Effect of appeal -- Grounds for appeal.
18.80.035	Review of notice of appeal by city attorney.
18.80.040	Appeal of staff decision maker or director's final decision.
18.80.050	Appeal of zoning board of adjustment or planning commission's final decision.
18.80.060	Notice of appeal requirements.
18.80.070	Cost of appeal.
18.80.080	Record on appeal.
18.80.090	Procedure at hearing.

18.80.010 Purpose.

This chapter shall govern the procedures for appeals from any final decision made under Title 16 or Title 18.

18.80.020 Definitions.

As used in this chapter:

"Appellant" shall mean a party-in-interest who has filed a notice of appeal under the provisions of this Chapter.

"De novo hearing" shall mean a new public hearing at which new and additional evidence may be presented.

"Effective date of the final decision", as it pertains to a city staff decision maker's or director's final decision, shall mean the date the city staff decision maker or director mails his or her written decision to the affected applicant and to any other party-in-interest to whom the written decision is required by this title to be mailed. As this phrase pertains to the zoning board of adjustment or the planning commission, it shall mean the date on which the board or commission adopts its written findings and conclusions.

"Evidence" shall mean documentary, electronic or testimonial evidence relevant to any application that was the subject of a final decision under the provisions of Title 16 or Title 18, presented at a hearing to support or refute a particular proposition or conclusion. Evidence shall not include argument as to how information offered as evidence should be viewed or interpreted.

"Notice of appeal" shall mean an appellant's written request for an appeal of a final decision submitted in the form required by Section 18.80.060.

"Party-in-interest", as it pertains to an appeal under this chapter of a final decision by a city staff decision maker or the director, shall mean: the applicant; any person required in Title 16 or this Title 18 to be mailed the city staff decision maker's or director's written final decision; two or more planning commission members; or two or more council members. As this term pertains to an appeal under this chapter of a final decision by the zoning board of adjustment or the planning commission, it shall mean: the applicant, the director, any person required in Title 16 or this Title 18 to be mailed notice of the zoning board of adjustment or planning commission's public hearing; any person who provided written or verbal testimony at the zoning board of adjustment or planning commission's public hearing (other than a city employee who was providing written or verbal testimony in his or her capacity as a city employee); or

two or more council members. For an appeal of a final plat for a major subdivision or a final development plan, only the applicant shall be considered a party-in-interest with standing to appeal.

“Record” shall mean all relevant documents reviewed by a previous board, commission or city staff decision maker, and any transcript or written record of any such previous hearing.

“Zoning board of adjustment” shall mean the city zoning board of adjustment established pursuant to Section 18.60.010.

18.80.030 Appeal of final decision permitted -- Effect of appeal -- Grounds for appeal.

- A. An appeal of a final decision may be filed pursuant to Sections 18.80.040 and 18.80.050. Upon the filing of an appeal, any application process with the city pertaining to the subject matter being appealed shall be suspended while the appeal is pending. Any action taken in reliance upon any decision of a board, commission or other city staff decision maker that is subject to appeal under the provisions of this chapter shall be totally at the risk of the person(s) taking such action until all appeal rights related to such decision have been exhausted, and the city shall not be liable for any damages arising from any such action taken during said period of time.
- B. Except for appeals by members of council, the permissible grounds for appeal shall be limited to allegations that the board, commission or other city staff decision maker committed one or more of the following errors:
 - 1. Failure to properly interpret and apply relevant provisions of the Code or other law; or
 - 2. Failure to conduct a fair hearing in that:
 - a. The board, commission or other city staff decision maker exceeded its authority or jurisdiction as contained in the Code or Charter;
 - b. The board, commission or other city staff decision maker considered evidence relevant to its findings which was substantially false or grossly misleading; or
 - c. The board, commission or other city staff decision maker improperly failed to receive all relevant evidence offered by the appellant.
- C. Appeals filed by members of council need not include specific grounds for appeal, but shall include a general description of the issues to be considered on appeal. Council members who file an appeal shall not participate in deciding the appeal.

18.80.035 Review of notice of appeal by city attorney.

Within seven days of the date of the filing of the notice of appeal, the notice shall be reviewed by the city attorney for any obvious defects in form or substance. A notice of appeal which fails to conform to the requirements of Section 18.80.030 shall be deemed deficient. The city attorney shall notify the appellant in writing of any such deficiency, which notice shall be mailed no more than seven days from the date of the filing of the notice of appeal. The appellant shall have seven days from the date of mailing of the notice of deficiency to cure such deficiency. If the deficiency is cured, the date the revised notice of appeal is received shall be considered the date of the filing of the notice of appeal. If the appellant does not file a revised notice of appeal within said time period, the appeal shall be deemed to be dismissed.

18.80.040 Appeal of staff decision maker or director’s final decision.

- A. A party-in-interest may appeal any final decision by the director or other staff decision maker to the planning commission.
- B. To appeal a staff decision maker or director’s final decision to the planning commission, a party-in-interest must file a notice of appeal with the current planning division within ten days of the effective date of the final decision. Failure of a party-in-interest to timely file a notice of appeal under this section shall result in the dismissal of that appeal.

- C. When a party-in-interest timely files a notice of appeal under this section, the current planning division shall schedule a public hearing for the appeal to be heard by the planning commission not less than thirty or more than sixty days of the filing of the notice of appeal unless a longer period of time is agreed to by the appellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the applicant in Section 16.16.070 shall be the responsibility of the current planning division unless the applicant is an appellant. The owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.
- D. The planning commission shall conduct the appeal hearing as a de novo hearing and shall apply the standards set forth in the Code applicable to the matter being appealed. After conducting the hearing, the planning commission may uphold, reverse or modify the final decision being appealed. The planning commission shall adopt at the public hearing or within thirty days of the public hearing its written findings and conclusions concerning the appeal.

18.80.050 Appeal of zoning board of adjustment or planning commission's final decision.

- A. A party-in-interest may appeal any final decision by the zoning board of adjustment or the planning commission to council. An appeal of a decision made by the zoning board of adjustment hearing officer, shall follow the procedures set forth in Section 18.60.060.
- B. To appeal a final decision by the zoning board of adjustment or planning commission to council, a party-in-interest must file a notice of appeal with the current planning division within ten days of the effective date of the final decision. Failure of a party-in-interest to timely file a notice of appeal under this section shall result in dismissal of that appeal.
- C. When a party-in-interest timely files a notice of appeal under this section, the current planning division shall schedule a public hearing for the appeal to be heard by council not less than thirty or more than sixty days of the filing of the notice of appeal unless a longer period of time is agreed to by the appellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the applicant in Section 16.16.070 shall be the responsibility of the current planning division unless the applicant is an appellant. The property owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.
- D. Council shall conduct the appeal hearing as a de novo hearing, and shall apply the standards set forth in the Code applicable to the matter being appealed. After conducting the hearing, council may uphold, reverse or modify the final decision being appealed. Council may also remand the appeal to the zoning board of adjustment or the planning commission with directions for the zoning board of adjustment or planning commission's further consideration of the matter. If council upholds, reverses or modifies a final decision made by the zoning board of adjustment or the planning commission, council shall adopt at the public hearing or within thirty days of the public hearing its written findings and conclusions. Council's written findings and conclusions shall be considered the council's final decision for purposes of any appeal of council's decision to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

18.80.060 Notice of appeal requirements.

The notice of appeal required to be filed under this chapter shall include all of the following information:

- A. A description of the final decision being appealed.
- B. The date of the final decision being appealed.

- C. The name, address, telephone number and relationship of each appellant to the subject of the final decision being appealed including a statement for each appellant as to the appellant's qualification for being considered a party-in-interest under this chapter.
- D. For all appeals, except those filed by members of council, a description the grounds for the appeal of the final decision, including specific allegations of error as required in Section 18.80.030.B. For notices of appeal filed by members of council, the notice must contain the general description of issues to be considered on appeal as required by Section 18.80.030.C.
- E. In the case of an appeal by more than one appellant, the name, address and telephone number of one such appellant who shall be authorized to receive, on behalf of all appellants, any notice required to be mailed by the city to the appellants under the provisions of Section 18.80.040 or Section 18.80.050.

18.80.070 Cost of appeal

In all appeals under this chapter except those filed by two or more members of the planning commission or those filed by two or more members of the council, the appellant shall be charged a fee for the cost of the appeal as such fee is established by council pursuant to Section 3.04.025. Council may establish a fee for each level of appeal.

18.80.080 Record on appeal

The record provided to the planning commission or council for appeals filed under this chapter shall include a record of any previous proceedings before a board, commission or other city staff decision maker, including without limitation, all exhibits, writings, drawings, maps, charts, graphs, photographs and other tangible items received or viewed by the board, commission or other city staff decision maker at any previous proceedings. A video recording of the zoning board of adjustment hearing or planning commission hearing is not required as part of the record on appeal provided summary minutes of such hearings are included as part of the record.

18.80.090 Procedure at hearing

- A. At the appeal hearing, the presentation of argument regarding the appeal shall be made in the following order, subject to the discretion of the chairperson or mayor relating to limitations in time and scope, or allowances accommodating adequate presentation of evidence or opportunity for rebuttal:
 - 1. Explanation of the nature of the appeal by city staff;
 - 2. Appellant's presentation of evidence, testimony and argument in support of the appeal;
 - 3. Presentation of evidence, testimony and argument of the applicant if the applicant is not the appellant; or, if the applicant is the appellant, presentation of evidence, testimony and argument by any city staff member or other party-in-interest in opposition to the appeal.
 - 4. Public comment;
 - 5. Rebuttal presentation by the appellant; and
 - 6. Motion, discussion and vote by the board, commission, or council.
- B. No person making a presentation or providing testimony at an appeal hearing shall be subject to cross-examination except that members of the planning commission or council and the city attorney may at any time make inquiries for the purpose of eliciting information and for the purpose of clarifying information presented.
- C. In the event of multiple appeals involving the same subject matter considered by the planning commission or council, the chairperson or mayor, in his or her discretion, may modify the procedure contained in Subsection A. above so as to expedite the hearing of such appeals.
- D. Council shall consider an appeal based upon evidence submitted at the public hearing, the record on appeal, the relevant provisions of the Code and Charter, and the grounds for appeal cited in

the notice of appeal. Grounds for appeal raised for the first time at the public hearing, and therefore not raised in the notice of appeal, shall not be considered by council in deciding the appeal.

Title 19

WATER RIGHTS

Chapters:

19.04 Water Rights.

19.06 Irrigation.

Chapter 19.04

WATER RIGHTS

Sections:

19.04.010	Definitions.
19.04.015	Water bank.
19.04.016	Water bank agreement.
19.04.017	Acquiring water bank credit.
19.04.018	Value of water bank credit.
19.04.020	Water rights required for development.
19.04.021	Exceptions to water rights requirements.
19.04.022	Calculation of water previously furnished to the city.
19.04.023	Water rights for service outside the city limits.
19.04.040	Satisfying water rights requirements.
19.04.041	Cash-in-lieu price.
19.04.045	Native raw water storage fee.
19.04.050	Escrow of water rights or cash in lieu of water rights.
19.04.070	Water rights appurtenant to land.
19.04.080	Requirements for acceptance of ditch water.
19.04.085	Other water rights.
19.04.090	Vested rights concerning water rights owed.

19.04.010 Definitions.

A. As used in this chapter, all words and phrases shall be interpreted and defined in accordance with Section 16.08.010 and Subsection B. of this section. In the event of a conflict, Subsection B. of this section shall control.

B. As used in this chapter:

“Department” means the city’s water and power department.

“Director” means the director of the city’s water and power department or that person’s designee.

“Water right” shall include, without limitation, units in the Colorado-Big Thompson Project, notwithstanding the fact that each unit does not represent an ownership in the Colorado-Big Thompson Project, but rather represents a contractual right to use a proportionate share of the water allocated to the Northern Colorado Water Conservancy District under the 1938 Repayment Contract between the United States Bureau of Reclamation and the Northern Colorado Water Conservancy District.

19.04.015 Water bank.

The city has established a water bank for the purpose of facilitating transfers of water rights to the city in satisfaction of the city's water rights requirements. In exchange for the transfer of water rights to the city in accordance with Section 19.04.017A.1., the city shall issue water bank credit in the city's water bank in the form of a holding receipt for use in accordance with the terms and conditions set forth in the water bank agreement, the holding receipt, and this chapter. Water bank credit, as represented by the holding receipt, may be transferred, in whole or part, to a third party upon the third party's execution of an assumption of obligations agreement in a form acceptable to the city attorney. Any water bank credit transferred on or after April 1, 2002 in violation of this section shall be deemed void.

19.04.016 Water bank agreement.

The Loveland utilities commission, in consultation with the city attorney, shall approve the form of the water bank agreement.

19.04.017 Acquiring water bank credit.

- A. Credit in the city's water bank may be acquired by either of the following methods:
 - 1. By transferring to the city, by good and sufficient conveyance, grant, assignment, or decree, ownership of water rights acceptable to the city. Applications to transfer water rights to the city shall be filed with the department. The applicant shall pay all expenses incurred in order to transfer ownership of the water rights to the city, unless otherwise agreed between the city and the applicant. In exchange for such transfer, the applicant shall receive credit in the city's water bank. Ownership of the water rights must be fully vested in the city, and all other applicable requirements set forth in this chapter must be satisfied, before water bank credit will be issued.
 - 2. By acquiring credit in the city's water bank from a water bank account holder. Upon an applicant's request, the city shall make available a list of water bank account holders who have informed the city that they are willing to sell water bank credit. The purchase price of such water bank credit shall be determined by the parties without further involvement of the city.
- B. Credit in the city's water bank may not be acquired from the city by cash purchase on or after January 1, 2006.

19.04.018 Value of water bank credit.

- A. The value of water bank credit received in exchange for water rights transferred to the city shall be determined at the time such water bank credit is applied to satisfy the city's water rights requirements.
- B. The current value of ditch water rights shall be as follows:

Ditch/Ditch Company	Value	
	With Payment of the Native Raw Water Storage Fee	Without Payment of the Native Raw Water Storage Fee
Barnes	3.32 acre-feet of water per inch	0.86 acre-feet of water per inch
Big Thompson Ditch & Manufacturing Company	186.57 acre-feet of water per share	70.90 acre-feet of water per share
Buckingham Irrigation Company (George Rist Ditch)	6.36 acre-feet of water per share	0.38 acre-feet of water per share
Chubbuck Ditch	2.94 acre-feet of water per inch	0.41 acre-feet of water per inch
Louden Irrigating Canal and Reservoir Company	12.17 acre-feet of water per share	2.43 acre-feet of water per share
South Side Ditch Company	4.55 acre-feet of water per share	1.46 acre-feet of water per share

The values set forth in the table above represent the historical average yield of each ditch as stated in Spronk Water Engineers Raw Water Supply Yield Analysis Update dated January 2012. These values are subject to change at any time by ordinance of council. The value of water bank credit received in exchange for transferring to the city ditch water rights not set forth in the table above shall be determined by council by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the city's water rights requirements. The native raw water storage fee applicable to each ditch or ditch company is set forth in Section 19.04.045.

- C. The current value of Colorado-Big Thompson Project units shall be one acre-foot per unit.

19.04.020 Water rights required for development.

A. Residential development.

1. Land zoned R1e, R1, R2, R3e, or R3 after June 5, 1984 and developed for residential uses and land zoned PUD, MAC, or E and developed for residential uses shall not receive final approval for development, nor shall construction or development be allowed on any such land, nor shall water service be furnished to any such land, until the city has received by grant or transfer the perpetual right to use the total amount of divertible water rights, in acre feet of water, as determined by the following formula:

$$\text{Total water rights due (in acre-feet)} = (1.6 \times \text{net lot acreage}) + (1.4 \times \text{acreage of that portion of each residential lot which is greater than 15,000 square feet}) + (0.23 \times \text{number of dwelling units})$$

Water rights required under this Subsection A. shall be paid prior to approval of the final plat by the director of development services. Notwithstanding anything herein to the contrary, water rights required under this Subsection A. may not be paid prior to acceptance of a complete application for final plat by the director of development services.

2. The applicant shall have a credit toward the requirements set forth in this Subsection A. for water rights previously furnished in conjunction with annexation or zoning.

B. Nonresidential development.

1. Any lot or tract zoned PUD, MAC, or E, if the developed use will be non-residential, and any lot or tract zoned Be, B, I, or PP shall not be entitled to receive water service or a building permit for any construction on the lot or tract until the city has received by a good and sufficient conveyance, grant, assignment, or decree the perpetual right to use the acre feet of water required by the following schedule:

Water Meter Size	Acre-feet Required
¾"	1
1"	4
1½"	8
2"	13
3"	26
4"	40
6"	80
8"	128
10"	184
12"	273

Notwithstanding anything herein to the contrary, water rights required under this Subsection B. may not be paid prior to the building official's acceptance of a complete application for building permit.

2. The applicant shall have a credit toward the requirements set forth in the schedule for water rights previously furnished in conjunction with annexation or zoning.
 3. Where property has been subdivided at or after the time of the furnishing of water rights, the water rights furnished shall be prorated among the parcels of the subdivision based upon the respective land areas. Water rights furnished to fulfill the requirements of this Subsection B. in connection with other water meters previously granted on the same tract or larger tract, as the case may be, shall not be prorated.
 4. Whenever a nonresidential water meter is abandoned or reduced in size, a credit shall be established in the city's water bank for the difference between the required water rights for the existing water meter and the required water rights for the new water meter, if any. Said credit shall be eligible for use only to fulfill water rights requirements arising on the property served by the original water meter, unless otherwise approved by council. Any unused credit remaining after ten years from the date the credit is created shall be canceled, and the owner thereof shall have no further claim to said credit. Upon application to council made prior to the expiration date, council may, for good cause shown, extend the expiration date as it sees fit.
- C. Mixed-use buildings. Water rights applicable to mixed-use buildings shall be paid prior to issuance of the building permit. For the purposes of this Subsection C., "mixed-use buildings" shall mean those buildings containing both residential and nonresidential uses. Notwithstanding anything herein to the contrary, water rights required under this Subsection C. may not be paid prior to the building official's acceptance of a complete application for building permit.
- D. Dedicated irrigation meters. Water rights applicable to dedicated irrigation meters are set forth in Chapter 19.06.

E. Transfers required by this section and Chapter 19.06 are summarized in the following table:

Use	Final Plat	Building Permit	Meter Activation
R1e, R1, R2, R3e, R3, Residential development within a PUD, MAC, or E	Total water rights as determined by 19.04.020A. Credit given for water rights paid at annexation or zoning.	None.	None.
Be, B, I, PP Nonresidential development within a PUD, MAC, or E	None.	Total water rights as determined by 19.04.020B. Credit given for water rights paid at annexation or zoning.	None.
Mixed-use buildings	None.	Total water rights as determined by 19.04.020A. and B.	None.
Dedicated irrigation meters	None.	None.	Total water rights as determined by Chapter 19.06.

19.04.021 Exceptions to water rights requirements.

- A. Certain conditions may warrant exceptions to the water rights requirements set forth in Section 19.04.020A. Such exceptions may be allowed at the discretion of city staff for the following reasons:
1. Water rights will not be required for areas which are legally served by other domestic water sources or water providers.
 2. Water rights requirements may be waived or modified by development or special agreements as approved by council when deemed in the best interest of the city.
 3. Subdivisions which include both an area where (i) water rights were furnished previously in conjunction with prior city annexation and zoning requirements, or where the property is subject to the provisions described in Section 19.04.022, and (ii) an area where the current water rights requirements apply, pursuant to Section 19.04.020A. or B., shall be given a credit of two or three acre-feet per acre, as appropriate, on the area subject to prior city annexation or zoning requirements to apply toward the current requirement for the entire area being platted. For this calculation, the applicant shall furnish, with the application, the area of the proposed subdivision which was subject to prior city annexation and zoning requirements. If the credit is larger than the total quantity needed under the current requirements for the requested approval, the requirement shall be deemed to have been met for the entire platted area, and no further credit shall exist.

4. For any land designated as an outlot in an approved final development plan of a planned unit development, water rights shall not be required for that outlot so long as the outlot is approved for a use that will not require connection to the city's potable water distribution system. In the event, however, that the outlot is duly approved by the city for a use that will require connection to the city's potable water distribution system or the outlot is redesignated, in accordance with the City Code, as a lot or tract, the water rights requirements of Section 19.04.020A. and B., if applicable to the outlot, lot, or tract must be satisfied prior to such approval or redesignation.
- B. If, at any time, city water service is requested for all or any portion of such land which has been exempted in part or in whole from water rights requirements in this, the applicant for city water service shall transfer to the city water rights in an amount equal to that which would be required, at the time such service is requested, in connection with annexation, zoning, and development or issuance of a building permit for a parcel of land of the same size for which water service is sought.

19.04.022 Calculation of water previously furnished to the city.

- A. The following rules shall be applied to determine the amount of raw water previously furnished in conjunction with prior city annexation and zoning requirements. In such areas, the requirements of Section 19.04.020A. and B. shall not apply, except as provided in this section.
 1. All land annexed to the city between December 5, 1978, and November 1, 1982, except such land as was zoned DR developing resource district on November 1, 1982, shall be deemed to have furnished to the city three acre-feet of water per acre, unless the utility commission determines otherwise based upon competent evidence. No additional water rights will be required, nor any excess credit given except as provided in Section 19.04.021A.5.
 2. All land annexed to the city prior to December 5, 1978, except land zoned DR, developing resource district on that date, shall be deemed to have furnished to the city two acre feet of water per acre, unless the utility commission determines otherwise, based upon competent evidence. No additional water rights will be required, nor any excess credit given except as provided in Section 19.04.021A.5.
 3. All land annexed to the city and zoned R1e, R1, R2, R3e, or R3 between November 1, 1982 and June 5, 1984 shall be deemed to have furnished to the city three acre feet of water per acre, unless the utility commission determines otherwise, based upon competent evidence. No additional water rights will be required, nor any excess credit given except as provided in Section 19.04.021A.5.
 4. All land zoned Be, B, or I after November 1, 1982 or zoned R1e, R1, R2, R3e or R3 after June 5, 1984 but not yet included in a final subdivision plat or final development plan, shall be deemed to have furnished to the city one acre-foot of water per acre unless the utility commission determines otherwise, based upon competent evidence.
 5. All land zoned R1e, R1, R2, R3e, or R3 and platted between June 5, 1984 and October 5, 1998 shall be deemed to have furnished to the city water rights as calculated by the following formula unless the utility commission determines otherwise, based upon competent evidence.

Total acre-feet required = (1.54 x net acres) + (0.154 x # dwelling units).

All land zoned R1e, R1, R2, R3e, R3, or PUD with residential uses and platted between October 5, 1998 and November 16, 1999, shall be deemed to have furnished to the city water rights are calculated by the following formula unless the utility commission determines otherwise, based upon competent evidence.

Total acre-feet required = (1.54 x net acres) + (0.154 x # dwelling units) + (2.0 x greenbelt areas).

All land with a tap dedicated to irrigation purposes only with Be, B, I or PUD with commercial or industrial use zoning between October 5, 1998 and November 16, 1999 and not subject to the provisions of Section 19.04.022A.1. or 2. shall be deemed to have furnished to the city two acre-feet of water per acre unless the utility commission determines otherwise, based upon competent evidence.

19.04.023 Water rights for service outside the city limits.

- A. Water rights are required for outside city water service. For nonresidential uses, the quantity of water rights required shall be determined in accordance with Section 19.04.020B. (calculated in the same manner as if the property to be served were located inside the city). For residential uses, the quantity of water rights required shall be determined as the lesser of the quantity specified in Section 19.04.020B. or Section 19.04.020A. (calculated in the same manner as if the property to be served were located inside the city). For irrigation use only, the quantity of water rights required shall be determined in accordance with Section 19.06.040B. or Section 19.050.050, as applicable (calculated in the same manner as if the property to be served were located inside the city).
- B. Water rights required for outside city water service shall be due at the time of application for outside city water service. Any outside city customer who has received a city water meter prior to December 1, 2012 but has not paid water rights to the city shall be required to provide water rights to the city upon the earlier of the following to occur to the property receiving city water service: (i) annexation; (ii) subdivision; (iii) “redevelopment,” as defined in the Site Development Performance Standards and Guidelines; (iv) change in meter classification (residential, nonresidential, or irrigation) (v) change in meter size; or (vi) installation of additional meters. Notwithstanding anything herein to the contrary, water rights shall not be due upon any of the following to occur to the property receiving city water service: (i) minor changes to the property that do not rise to the level of “redevelopment,” such as roof replacements, or basement finishes that do not increase the gross floor area of a building or structure by at least twenty-five percent over the gross floor area existing as of February 1, 1988; (ii) the addition of outbuildings that do not require a change in meter size or additional meters; or (iii) the addition of a fire hydrant.

19.04.040 Satisfying water rights requirements.

To satisfy the city’s water rights requirements, the applicant must apply water bank credit in an amount sufficient to satisfy the city’s water rights requirements. A minimum of fifty percent of every transaction to satisfy such requirement must include water bank credits received in exchange for Colorado-Big Thompson Project units transferred to the city or water bank credits acquired from the city by cash purchase, or by paying the cash-in-lieu price (“50%

Rule”). If the acre-feet requirement resulting from the 50% Rule results in a fractional requirement of less than a one-half acre-foot, it may be rounded down to the nearest acre-foot.

19.04.041 Cash-in-lieu price.

The cash-in-lieu price shall be equal to the market price of one Colorado-Big Thompson Project unit as recognized by resolution of the Loveland utilities commission, divided by the yield (in acre-feet) of one Colorado-Big Thompson Project unit as set forth in Section 19.04.018B., with the resulting quotient multiplied by 1.05. Said fee shall be calculated in accordance with the resolution in effect at the time such payment is due.

19.04.045 Native raw water storage fee.

- A. When credit in the city’s water bank received in exchange for the transfer of ditch water rights to the city is applied to satisfy the city’s water rights requirements, it shall be subject to the native raw water storage fee unless exempted under Subsection B. or C. below. Said fee shall be calculated and due at the time such water bank credit is applied to satisfy the city’s water rights requirements as provided in Sections 13.04.245C. and 19.04.020. The current native raw water storage fee applicable to each ditch or ditch company shall be as follows:

Ditch / Ditch Company	Native Raw Water Storage Fee Per Acre-Foot
Barnes Ditch	\$5,750
Big Thompson Ditch & Manufacturing Company	\$3,530
Buckingham Irrigation Company (George Rist Ditch)	\$7,400
Chubbuck Ditch	\$7,400
Louden Irrigating Canal and Reservoir Company	\$6,850
South Side Ditch Company	\$6,770

The native raw water storage fees set forth in the table above are taken from the Raw Water Master Plan. These values are subject to change at any time by ordinance of council. The native raw water storage fee applicable to water bank credit received in exchange for transferring to the city ditch water rights not set forth in the table above shall be determined by council by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the city’s water rights requirements. The native raw water storage fee shall not apply to water bank credits received in exchange for the transfer of Colorado-Big Thompson Project units to the city or water bank credits acquired from the city by cash payment or to payments of the cash-in-lieu price.

- B. When credit in the city’s water bank received in exchange for the transfer of ditch water rights to the city on or before July 20, 1995 is applied to satisfy the city’s water rights requirements, it shall not be subject to the native raw water storage fee, notwithstanding the provisions of Subsection A. above.
- C. When water bank credit is applied to satisfy the city’s water rights requirements, the person applying the credit may choose not to pay the native raw water storage fee set

forth above, in which case the value of the credit shall be decreased in accordance with the table set forth in Section 19.04.018B.

19.04.050 Escrow of water rights or cash in lieu of water rights.

- A. If requested by the developer of the land for which water rights are owed, the water rights or cash in lieu of water rights may be conveyed into an escrow held by the city clerk to be released to the city upon approval of the final plat for residential development or upon issuance of the building permit for non-residential development, and if the final plat or building permit is denied to be returned to the developer upon such denial. The escrow shall be governed by the terms of an escrow agreement between the city and the developer. In the event the developer has requested an escrow of all or any portion of a cash in lieu of water rights payment for residential development, the escrow agreement shall provide that the cash in lieu payment will be held in escrow for a period not to exceed forty-five days following council approval to the final plat.
- B. Where the cash in lieu payment is subject to an escrow agreement, the final plat approval shall be expressly conditioned upon payment of the fee within the forty-five-day period following final plat approval. In the event the cash in lieu payment is not paid within said forty-five-day period, the final plat approval shall be void and of no force or effect. During the forty-five-day period prior to receipt of the cash in lieu payment, the final plat shall not be recorded with the Larimer County Clerk and Recorder.

19.04.070 Water rights appurtenant to land.

At the time land is annexed to the city or application for final development is made to the city, the owner shall, by a good and sufficient conveyance, grant, assignment, or decree, transfer to the city all water rights appurtenant to the land being annexed; provided, however, that in no event shall the owner be required to transfer water rights in excess of the water rights requirements imposed upon annexation and development; and provided further, that acceptability of specific water rights shall be subject to council approval.

19.04.080 Requirements for acceptance of ditch water.

- A. Applications to transfer ditch water rights to the city shall be filed with the department. No ditch water rights shall be accepted by the city unless first approved by the Loveland utilities commission. Said approval shall not be given without satisfaction of each of the following requirements:
 - 1. Evidence of the applicant's ownership of the ditch water rights in a form satisfactory to the city attorney;
 - 2. A water bank agreement executed by the applicant and, if applicable, other documentation, such as a statement of historical use and dry-up covenant, in a form approved by the city attorney; and
 - 3. A finding by the Loveland utilities commission that it is in the city's best interests to accept the ditch water rights.
- B. The Loveland utilities commission may place conditions or restrictions on the city's acceptance of the ditch water rights or the applicant's use of the corresponding water bank credit as necessary to protect the city's interests. Applicants who do not wish to transfer their ditch water rights to the city subject to such conditions or restrictions may withdraw their application prior to execution of the water bank agreement by the city.

- C. As used herein, “ditch water rights” shall refer to and mean water rights from the following ditches or ditch companies commonly referred to as: Big Thompson Ditch & Manufacturing Company; Buckingham Irrigation Company (George Rist Ditch); Loudon Irrigating Canal and Reservoir Company; and South Side Ditch Company.

19.04.085 Other water rights.

The city may accept water rights other than Colorado-Big Thompson Project units and those ditch water rights listed in Section 19.04.080C. upon such terms and conditions as are approved by council by resolution.

19.04.090 Vested rights concerning water rights owed.

The water rights owed by an applicant for a development for which the applicant has obtained and possesses a vested right to undertake and compete the development pursuant to C.R.S. § 24-68-101 *et seq.* as implemented by Chapter 18.72, shall be calculated in accordance with the water rights provisions in effect on the date applicant’s right to develop was vested in accordance with Chapter 18.72.

Chapter 19.06

IRRIGATION

Sections:

19.06.010	Definitions.
19.06.020	Irrigation with non-city water.
19.06.030	Irrigation with raw water.
19.06.040	Irrigation with treated city water.
19.06.050	Irrigation subject to water budget.
19.06.060	Dedicated irrigation meter capacity.
19.06.065	Irrigation booster pumps prohibited.
19.06.070	Water rights due prior to activation of dedicated irrigation meter.

19.06.010 Definitions.

- A. As used in this chapter, all words and phrases shall be interpreted and defined in accordance with Section 16.08.010 and Subsection B of this section. In the event of a conflict, Subsection B. of this section shall control.
- B. As used in this chapter:

“Dedicated irrigation meter” means a meter installed for the sole purpose of providing water for irrigation. For the purposes of Section 19.06.050, the phrase “dedicated irrigation meter” shall mean a single dedicated irrigation meters or sets of interconnected dedicated irrigation meters.

“Hydrozone” means a portion of the landscaped area having plants with similar water needs. Typical plant lists for each hydrozone are set forth in the Site Development Performance Standards and Guidelines at Appendix A. The city recognizes four hydrozones: high water need; moderate water need; low water need; and very low water need (no irrigation required).

“Water budget” means the maximum amount of water an irrigator is allotted per year to irrigate a specific landscaped area through a dedicated irrigation meter or set of interconnected dedicated irrigation meters.

19.06.020 Irrigation with non-city water.

Areas to be irrigated with water from other municipal or quasi-municipal sources shall not require the payment of any water rights to the city.

19.06.030 Irrigation with raw water.

- A. Areas to be irrigated with raw water, including well water, shall not require the payment of any water rights to the city, provided all of the following conditions are met:
 - 1. The owner provides written documentation in the form of water court decrees or water shares evidencing the fact that there are adequate water rights to serve the proposed irrigation system, and in the event a homeowners association is to be responsible for the maintenance of the areas to be irrigated with raw water, evidence that the homeowners association has or will have the right to use the water for such purposes.

2. The owner applies to, and obtains approval from, the director of the water and power department or the director's designee for the use of raw water irrigation.
 3. The city receives documentation, verified by a professional engineer, certifying that the irrigation system has been designed to prevent the possibility of connection of such system to the city's treated water system.
 4. The following statement appears on the plat of the area to be irrigated with raw water, or if the plan for such irrigation is not presented in conjunction with a plat, the following statement is included in a recorded instrument with a surveyed legal description of the area to be irrigated:

"A portion of the land area depicted on this plat or legally described in this instrument is approved by the City of Loveland for irrigation using raw water from private sources. The Loveland Municipal Code contains requirements regulating the irrigation of such area(s) and prohibits the use of treated, potable city water being used for such irrigation. The city's permission to irrigate with raw water does not constitute any assurance by the city that there is either adequate raw water or adequate water rights available to the land to properly irrigate such area(s) or that the raw water irrigation system has been adequately designed to properly irrigate such area(s). The city has no obligation to provide any water to irrigate such area(s)."
 5. The irrigated area is conspicuously posted with signs stating that raw water is being used for irrigation. Such signs and their locations shall be subject to the approval of the director of water and power or the director's designee, and no sign permits shall be required for the same.
- B. If, at any time, treated city water service is requested for all or any portion of an area formerly irrigated with raw water for which water rights have not been paid, the applicant for such service shall transfer to the city water rights in an amount equal to the water rights requirement in existence at the time of such application.
 - C. If the owner of an area irrigated with treated city water desires to convert to raw water irrigation, the owner may apply to do so upon the same terms and conditions as set forth in this section. The owner shall file a recorded instrument or correction plat with the notation set forth in Section 19.06.030A.4. The owner shall be granted a credit in the city's water bank for water previously transferred for such area. Said credit shall be described in acre-feet of water. Storage fees applicable to said credit shall be considered paid in full. In addition, the owner may request a return of system impact fees in accordance with Section 13.04.032.

19.06.040 Irrigation with treated city water.

- A. Areas to be irrigated with treated city water by use of a residential or nonresidential meter shall be required to provide water rights as set forth in Section 19.04.020.
- B. Except as provided in Section 19.06.050, areas to be irrigated with treated city water by use of a dedicated irrigation meter shall be required to provide three acre-feet of water for each acre of irrigated area.

19.06.050 Irrigation subject to water budget.

- A. The purpose of this program is to protect the city's water resources by encouraging the design, installation, and maintenance of water-efficient landscapes in which plantings are

grouped by hydrozone and are subject to a water budget. For information regarding water-efficient landscape requirements, see section 4.10 of the Site Development Performance Standards and Guidelines.

- B. Participation in the program is voluntary. Irrigators must meet the requirements of section 4.10 of the Site Development Performance Standards and Guidelines and demonstrate a twenty-five percent reduction in water use from traditional bluegrass landscapes as set forth in Subsection D.1. below. Irrigators who do so shall be entitled to a reduced water rights requirement as set forth in Subsection C. below and may incur lower system impact fees resulting from reduced meter sizes necessary to irrigate their landscapes.
- C. Areas to be irrigated with treated city water by use of a dedicated irrigation meter subject to a water budget shall be required to provide the following water rights, which are calculated based on the maximum gallons per square foot per year required by each hydrozone:

Hydrozone	Maximum Gallons Used Per Square Foot Per Year	Acre-feet of Water Due Per Acre
High water need	20	3
Moderate water need	10	1.5
Low water need	3	.5
Very low water need	0	0

D. Water budget.

- 1. The city will calculate the water budget based on the maximum gallons used per square foot per year by each applicable hydrozone irrigated through a dedicated irrigation meter in accordance with the table set forth in Subsection C. If the calculation does not demonstrate a twenty-five percent reduction in water use from traditional bluegrass landscapes, the irrigator may not participate in the program and must pay the water rights set forth in Section 19.06.040.
- 2. Failure to meet established water budget.
 - a. Irrigators who exceed their established water budget shall pay the following surcharge:

Water Consumed	Surcharge
0% to 100% of annual budget	No surcharge
101% to 150% of annual budget	1 x base irrigation rate
151% to 200% of annual budget	2 x base irrigation rate
201% + of annual budget	4 x base irrigation rate

- b. Irrigators who exceed their established water budget in three consecutive years shall be required to provide water rights according to the following formula:
 (water rights required pursuant to Section 19.06.040) – (water rights previously paid using the water budget calculation set forth in 19.06.050)
 Water rights due pursuant to this section shall be paid within sixty days of the date of invoice. Any unpaid amounts may be subject to lien in accordance with Section 13.04.290 or collected in any other manner permitted by law.

- c. The city recognizes that new landscapes require more water until established. Therefore, irrigators of new landscapes shall not be subject to the surcharge set forth in Subsection 2.a., nor shall such irrigation count toward the three years provided for in Subsection 2.b., for the then-current calendar year (if meter activation is before August 1) or the then-current calendar year plus the next calendar year (if meter activation is on or after August 1). For the purposes of this section, “calendar year” shall mean January 1 through December 31.
- E. Irrigators who choose to redesign their landscapes to meet the requirements of this section and section 4.10 of the Site Development Performance Standards and Guidelines shall be entitled to the following credit and refund:
 1. Credit in the city’s water bank equal to the difference between the water rights paid and the water rights due under Subsection D. Said credit shall be described in acre-feet of water. Storage fees applicable to said credit shall be considered paid in full.
 2. Refund of system impact fees as set forth in Section 13.04.033.

19.06.060 Dedicated irrigation meter capacity.

- A. Irrigation systems utilizing dedicated irrigation meters shall be designed based on the available flow through the meter at the project site, but shall not exceed the flows set forth in the following table:

Meter Size	Maximum Continuous Design Flow (If Available)
¾ inch	15 gallons per minute
1 inch	25 gallons per minute

For meters larger than one inch, the irrigation system designer shall be responsible for verifying minimum system pressures occurring seasonally and throughout the day (especially during peak demand periods).

19.06.065 Irrigation booster pumps prohibited.

The installation or operation of an irrigation booster pump in water service lines that are directly fed by the city’s water distribution system is prohibited. Notwithstanding anything herein to the contrary, any such irrigation booster pumps installed prior to June 5, 2012 may continue in operation without violating this section, but may not be replaced.

19.06.070 Water rights due prior to activation of dedicated irrigation meter.

Water rights required for dedicated irrigation meters shall be due prior to activation of the meter, or first meter if in a set of interconnected meters, but may not be paid prior to approval of the final plat by the director of development services.